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# Federal Register

Wednesday
February 17, 1988

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For information on a briefing in Tampa, FL, and Fort Lauderdale, FL, see announcement on the inside cover of this issue.

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**FOR:** Any person who uses the Federal Register and Code of Federal Regulations.

**WHO:** The Office of the Federal Register.

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3. The important elements of typical Federal Register documents.
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**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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**WHEN:** March 24; at 9:30 a.m.
**WHERE:** Auditorium
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**WHERE:** Room 8 A and B
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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

### 7 CFR Part 401

**[Docket No. 5210S]**

### General Crop Insurance Regulations; Corn Endorsement; Correction

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule; Correction.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) published a final rule in the **Federal Register** on Wednesday, November 25, 1987, at 52 FR 45142, amending the General Crop Insurance Regulations (7 CFR Part 401) to add a new section § 401.111, the Corn Endorsement. In that publication, an adjustment formula was provided for mature grain damaged by insurable causes which had a test weight of below 40 pounds per bushel or kernel damage more than 15 percent. This figure should have read 49 pounds per bushel and 10 percent in accordance with the U.S. Standards for grain. This notice is published to correct that error.

**EFFECTIVE DATE:** February 17, 1988.

**ADDRESS:** Written comments on this correction may be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

**SUPPLEMENTARY INFORMATION:** FR Document 87-27047, appearing at pages 45142 through 45145, is being corrected by this document.

**List of Subjects in 7 CFR Part 401**

Crop insurance.

**PART 401—[AMENDED]**

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. Section 401.111 is amended by revising paragraph 7.d.(1)(b) introductory text to read as follows:

**§ 401.111 [Amended]**

* * * * *

(b) Mature grain which, due to insurable causes, has a moisture over 40 percent; test weight below 49 pounds per bushel; or kernel damage more than 10 percent as determined by a grain grader licensed by the Federal Grain Inspection Service or licensed under the United States Warehouse Act, will be adjusted by:

* * * * *

Done in Washington, DC, on February 8, 1988.

**Edward D. Hews,**

*Acting Manager, Federal Crop Insurance Corporation.*

[FR Doc. 88-3227 Filed 2-16-88; 8:45 am]

BILLING CODE 3410-08-M

## Agricultural Marketing Service

### 7 CFR Parts 1136 and 1139

**[Docket Nos. AO-309-A27 and AO-374-A11]**

### Milk in the Great Basin and Lake Mead Marketing Areas; Order Amending and Merging Orders

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This action merges the Great Basin and Lake Mead Federal milk orders on the basis of industry proposals considered at a public hearing held March 18-20, 1986, in Salt Lake City, Utah. The merged "Great Basin" marketing area includes, in addition to all of the presently regulated area of the two individual orders, the presently unregulated portion of the State of Utah, two counties in Wyoming, and additional counties in Idaho. The provisions of the merged order are generally patterned after those of the two separate orders, and the present Class I price differentials at Salt Lake City and Las Vegas are maintained.

The merged order includes in the pool plant definition a manufacturing plant located within the marketing area and operated by a cooperative association. Pool obligations of a partially regulated distributing plant operator regulated by a State order will be determined by the value of the fluid milk products distributed in the Federal order marketing area at the difference between the Class I price paid by the handler regulated under the State order and the applicable Federal order Class I price.

For the first time in the Federal milk order system, the merged order includes a plan for pricing milk on the basis of its protein, as well as butterfat, components. The differential value of milk used in Class I and Class II will be pooled to determine producers' shares of the higher-valued uses, and the value of protein used in Classes II and III will be pooled with the value of skim milk used in Class I to determine the value of protein in producer milk.

The merger is necessary to reflect changes in market structure in that the two separately regulated areas have become, in effect, one common market. Cooperative associations representing more than the required two-thirds of the producers supplying milk for the market during the representative period of July 1987 have approved issuance of the amended order.

**EFFECTIVE DATE:** April 1, 1988.

**FOR FURTHER INFORMATION CONTACT:** Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding:

Notice of Hearing: Issued February 6, 1986; published February 11, 1986 (51 FR 5070).

Suspension Order (Great Basin): Issued May 28, 1986; published June 3, 1986 (51 FR 19821).

Notice of Proposed Suspension (Great Basin): Issued July 29, 1986; published August 4, 1986 (51 FR 27866).

Notice of Proposed Suspension (Lake Mead): Issued July 29, 1986; published August 1, 1986 (51 FR 27555).

Termination of Proceeding on Proposed Suspension (Lake Mead): Issued August 29, 1986; published September 9, 1986 (51 FR 32104).

Suspension Order (Great Basin): Issued September 2, 1986; published September 5, 1986 (51 FR 31759).

Recommended Decision: Issued July 14, 1987; published July 21, 1987 (52 FR 27372).

Final Decision: Issued December 30, 1987; published January 11, 1988 (53 FR 686).

**Findings and Determinations**

The Findings and determinations hereinafter set forth supplement those that were made when the Great Basin and Lake Mead orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Great Basin and Lake Mead marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The merged Great Basin Order, which amends and merges the Great Basin and Lake Mead orders, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the merged marketing area; and the minimum prices specified in the merged order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The merged Great Basin order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which hearings have been held.

(4) All milk and milk products handled by handlers, as defined in the merged Great Basin order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1139.85.

(b) Determinations. It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the merged Great Basin marketing area.

**List of Subjects in 7 CFR Parts 1136 and 1139**

Milk marketing orders, Milk, Dairy products.

**Order Relative to Handling**

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Great Basin and Lake Mead marketing areas (Parts 1136 and 1139, respectively) shall be amended and merged into one order. Part 1136 is superseded thereby, and such vacated Part designation shall be reserved for future assignment. The handling of milk in the merged marketing area to be designated as the "Great Basin Marketing Area" (Part 1139), shall be in conformity to and in compliance with the terms and conditions of the following attached order.

For the reasons set forth in the preamble, Chapter X of Title 7 of the Code of Federal Regulations is amended as follows:

## PART 1136—[REMOVED AND RESERVED]

1. Part 1136 is removed and reserved.

2. Part 1139 is revised to read as follows:

## PART 1139—MILK IN THE GREAT BASIN MARKETING AREA

**Subpart—Order Regulating Handling**

**General Provisions**

Sec.



**Definitions**



**Handler Reports**



**Classification of Milk**



**Class and Component Prices**



**Differential Pool and Handler Obligations**



**Payments for Milk**

**Authority:** Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

## PART 1139—MILK IN THE GREAT BASIN MARKETING AREA

### Subpart—Order Regulating Handling

### General Provisions

#### § 1139.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference, and made a part of this order.

### Definitions

#### § 1139.2 Great Basin marketing area.

"Great Basin marketing area" (hereinafter called the "marketing area") means all the territory, including all municipalities and government reservations and installations within, or partially within, the counties listed below:

Utah counties: All
Nevada counties: Clark, Elko, Lincoln and White Pine
Wyoming counties: Lincoln and Uinta
Idaho counties: Bannock, Bear Lake, Bingham, Bonneville, Caribou, Franklin, Jefferson, Madison, Oneida and Power

#### § 1139.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product from a plant to a retail or wholesale outlet (including any delivery to a distribution point by a vendor, from a plant store, or through a vending machine). The term "route disposition" does not include a delivery to a plant defined in § 1139.7 (a) or (b).

#### § 1139.4 [Reserved]

#### § 1139.5 Distributing plant.

"Distributing plant" means a plant in which approved fluid milk products or filled milk are processed or packaged, and from which fluid milk products are disposed of on routes in the marketing areas during the month.

#### § 1139.6 Supply plant.

"Supply plant" means a plant from which approved fluid milk products or filled milk are transferred in bulk form during the month to a pool distributing plant.

#### § 1139.7 Pool plant

"Pool plant" means any plant, except a plant defined in § 1139.8, which meets the standards of one or more of the following paragraphs:

(a) A distributing plant from which not less than:

(1) 50 percent in any month of September through February, 45 percent of any month of March and April, and 40 percent in any month of May through August of the approved fluid milk products, except filled milk, received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class II or Class III under this order and which is subject to the pricing and pooling provisions of any other order issued pursuant to the Act), are disposed of as route disposition; and

(2) 15 percent of such receipts are disposed of as route disposition in the marketing area during the month.

(3) If a handler operates more than one distributing plant, the combined receipts and fluid milk product dispositions of such plants may be used as the basis for qualifying all of the plants pursuant to paragraph (a)(1) of this section, provided the handler so notifies the market administrator in writing before the last day of the month for which such consolidation is desired.

(b) A distributing plant that meets the following conditions:

(1) The plant is located in the marketing area;

(2) The plant meets the requirements of paragraph (a)(1) of this section; and

(3) The principal activity of such plant is the processing and distribution of aseptically processed and packaged fluid milk products.

(c) A supply plant from which during the month not less than 50 percent of its approved milk receipts from dairy farmers is transferred to a pool distributing plant pursuant to paragraphs (a) or (b) of this section as fluid milk products. Any supply plant that has qualified as a pool plant in each of the immediately preceding months of August through February shall be a pool plant in each of the following months of March through July unless written request for nonpool status for any of such months is filed by the plant operator with the market administrator prior to the first day of the month the request is to be effective. A plant withdrawn from pool supply plant status may not be reinstated for any subsequent month of the March through July period unless it fulfills the transferring requirements of this paragraph for such month.

(d) Any manufacturing plant, or other plant not defined in paragraphs (a), (b) or (c) of this section, located within the marketing area at which milk is received from producers and which is owned and operated by a cooperative association or federation which delivers at least 45 percent of its producer milk (including that in fluid milk products transferred from its own plant pursuant to this paragraph that is not in excess of the amount in producer milk actually received at such plant) to pool distributing plants during the current month or the 12-month period ending with the current month, if the cooperative association or federation requests pool plant status for such plant in writing before the first day of any month for which such status is to be effective.

(e) The pool plant performance standards in paragraphs (a)(1), (b), (c) or (d) of this section may be reduced or increased by 10 percentage points by the Director of the Dairy Division if that person finds such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the Director shall investigate the need for revision either at the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments.

#### § 1139.8 Nonpool plant.

"Nonpool plant" means any plant defined in this section, and any other milk receiving, manufacturing, or processing plant, other than a pool plant:

(a) "Producer-handler plant" means a plant operated by a producer-handler as defined in this, or any other order issued pursuant to the Act.

(b) "Other order plant" means a plant as specified under paragraph (b)(1), (2) or (3) of this section that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act:

(1) A distributing plant qualified pursuant to §1139.7(a) that also meets the pool plant requirements of another Federal order, and from which the Secretary determines a greater quantity of Class I milk was disposed of as route disposition during the month in such other Federal order marketing area than

was disposed of as route disposition in this marketing area, except that if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of its Class I route disposition is made in such other marketing area;

(2) A supply plant qualified pursuant to § 1139.7(c) that also meets the pool plant requirements of another Federal order and from which a larger quantity of fluid milk products is transferred during the month to plants regulated under such other order than is transferred to distributing plants under this order, except that transfers to other order plants for Class III dispositions during the months of March through July shall be disregarded for purposes of this computation if the operator of the supply plant elects to retain pool status under this order; or

(3) A plant qualified pursuant to § 1139.7(a), (b), or (c) which the Secretary determines, despite the provisions of this order, to be fully regulated under another Federal order.

(c) "Exempt plant" means a distributing plant:

(1) Having less than an average of one thousand pounds per day of route dispositions in the marketing area during the month;

(2) Operated by a governmental agency, or a duly accredited college or university, disposing of fluid milk products only through the operation of its own food service, and having no route dispositions in commercial channels; or

(3) From which the total route disposition is to individuals or institutions for charitable purposes without remuneration from such individuals or institutions.

(d) "Partially regulated distributing plant" means a distributing plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(e) "Unregulated supply plant" means a supply plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

**§ 1139.9 Handler.**

"Handler" means:

(a) Any person who operates one or more pool plants;

(b) Any cooperative association with respect to producer milk diverted for the account of such association pursuant to § 1139.13;

(c) Any cooperative association or federation with respect to milk that is received at the farm for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association or federation; or

(d) Any person who operates a plant defined in § 1139.8 (a) through (e).

**§ 1139.10 Producer-handler.**

"Producer-handler" means any person who meets all of the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by such person in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is such person's sole risk, and under such person's complete and exclusive management and control;

(2) Each such farm is owned or operated by and at the sole risk of such person, and under such person's complete and exclusive management and control; and

(3) Only such person, and no other person (except a member of such person's immediate family, or a stockholder in the case of a corporate operator) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which approved milk is processed or packaged and from which there is route disposition during the month in the marketing area, and:

(1) No fluid milk products are received at such plant during the month or by such person at any other location except:

(i) From the dairy farm(s) specified in paragraph (a) of this section; and

(ii) From pool plants by transfer or diversion, or from other order plants, in an amount that is not in excess of the larger of 5,000 pounds or 5 percent of such person's Class I disposition during the month;

(2) Such plant is operated under such person's complete and exclusive management and control and at such person's sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at stores operated by such person or by any person (including the operator of a plant, or vendor) who controls or is controlled by such person (e.g., as an interlocking stockholder) or in which such person (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at such person's plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except in the fortification of fluid milk products) as Class I milk.

**§ 1139.11 Approved milk.**

"Approved milk" means any milk or fluid milk product that is approved for fluid consumption by a duly constituted regulatory authority.

**§ 1139.12 Producer.**

(a) Except as provided in paragraph (b) hereof, "producer" means any person:

(1) Who produces approved milk; and

(2) Whose milk is received at a pool plant or diverted to a nonpool plant within the limits set forth in § 1139.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined under any order (including this order) issued pursuant to the Act;

(2) Any person with respect to milk diverted to a pool plant from an other order plant, if the other order designates such person as a producer under that order, and such milk is allocated to Class II or Class III utilization pursuant to § 1139.44(a)(8)(iii) and the corresponding step of § 1139.44(b);

(3) Any person with respect to milk diverted to another order plant if any part of such milk was allocated to Class I, or the other order defines such person as a producer; or

(4) Any person whose milk is received at a nonpool plant (except an other order plant) other than as a diversion from a pool plant after the first delivery of milk from such dairy farmer in any month was received as approved milk at a pool plant, or was otherwise qualified as producer milk.

**§ 1139.13 Producer milk.**

"Producer milk" means the skim milk and butterfat in milk of a producer that is:

(a) Received or diverted by a handler defined in § 1139.9(a) under one of the following conditions:

(1) Received at such handler's pool plant directly from the farm of such producer;

(2) Received at such handler's pool plant from a handler defined in § 1139.9(c); or

(3) Diverted to a nonpool plant subject to the conditions set forth in paragraph (d) of this section;

(b) Diverted by a handler defined in § 1139.9(b) to a nonpool plant subject to the conditions set forth in paragraph (d) of this section;

(c) Received by a handler defined in § 1139.9(c) from the producer's farm in excess of the producer's milk that is received at pool plants pursuant to paragraph (a)(2) of this section. Such producer milk shall be deemed to have been received by the handler at the location of the pool plant to which the milk was delivered;

(d) The following conditions shall apply to producer milk diverted to a nonpool plant:

(1) The milk shall be priced at the location of the plant to which diverted;

(2) A cooperative association or federation may divert for its account the milk of any of its producers from whom at least one day's milk production is received during the month at a pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of April through August and 50 percent in other months of the producer milk which the association or federation causes to be delivered to pool plants or diverted to nonpool plants during the month. Two or more cooperative associations may have their allowable diversions computed on the basis of their combined deliveries of the producer milk which the cooperative associations cause to be delivered to pool plants or diverted pursuant to this section if each association has filed a request in writing with the market administrator before the first day of the month the agreement is effective. This request shall specify the basis for assigning over-diverted milk to the producer deliveries of each cooperative association according to a method approved by the market administrator;

(3) The operator of a pool plant (other than a cooperative association or federation) may divert for its account the milk of any producer (other than milk diverted pursuant to paragraph (d)(2) of this section) from whom at least one day's milk production is received during the month at a pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of April through August, and 50 percent in other months of the producer milk received at or diverted from such pool plant for which the operator of such plant is the handler during the month. The milk for which the operator of such plant is the handler for the month may not duplicate milk diverted pursuant to paragraph (d)(2) of this section;

(4) The diversion limits of this paragraph may be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if that person finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the needs for revision either at the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments;

(5) Diversions in excess of the percentages in paragraphs (d)(2) and (d)(3) of this section shall not be producer milk, and the diverting handler shall designate the milk which is not producer milk. If the handler fails to make such designation, no milk diverted by the handler shall be producer milk. In the event some of the milk of any producer is determined not to be producer milk pursuant to this paragraph, other milk delivered by the producer during the month as producer milk will not be subject to § 1139.12(b)(4); and

(6) Milk of a dairy farmer who was not a producer in the preceding month shall not be eligible for diversion until after one day's milk production from such farmer has been received at a pool plant.

**§ 1139.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1139.40(b)(1) from any source other than producers, handlers defined in § 1139.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1139.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1139.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1139.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1139.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in consumer-type packages), or reconstituted.

(b) The term "fluid milk products" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), whey, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, or aseptically packaged and hermetically sealed in foil-lined paper containers, and any product that contains by weight less than 6.5 percent nonfat milk solids; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1139.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1139.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milk fat, so that the product (including stabilizers, emulsifiers, or flavoring), resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1139.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of dairy farmers, including producers, which the Secretary determines, after application by the cooperative association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act", and any amendments thereto;

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk for its members; and

(c) To have its entire activities under the control of its members.

**§ 1139.19 Product prices.**

The prices specified in this section as computed and published by the Director of the Dairy Division, Agricultural Marketing Service, shall be used in calculating the basic Class II formula price pursuant to § 1139.51(b) and the term "work-day" as used herein shall mean each Monday through Friday that is not a national holiday.

(a) "Butter price" means the simple average of the prices per pound of approved (92-score) butter on the Chicago Mercantile Exchange for the work-days during the first 15 days of the month, using the price reported each week as the price for the day of the report, and for each succeeding work-day until the next price is reported.

(b) "Cheddar cheese price" means the simple average for the work-days during the first 15 days of the month, of the prices per pound of cheddar cheese in 40-pound blocks on the National Cheese Exchange (Green Bay, WI). The price reported for each week shall be used as the price for the day on which reported, and for each succeeding work-day until the next price is reported.

(c) "Nonfat dry milk price" means the simple average of the prices per pound of nonfat dry milk for the work-days during the first 15 days of the month computed as follows:

(1) Use the prices (using the midpoint of any price range as one price) reported each week for high heat, low heat and approved nonfat dry milk, respectively, for the Central States production area;

(2) Compute a simple average of the weekly prices for the three types of nonfat dry milk in paragraph (c)(1) of this section. Such average shall be the daily price for the day on which the prices were reported and for each preceding work-day until the day such prices were previously reported; and

(3) Add the prices determined in paragraph (c)(2) of this section for the work-days during the first 15 days of the month and compute the simple average thereof.

(d) "Edible whey price" means the simple average of the prices per pound of edible whey powder for the Central States production area for the work-days during the first 15 days of the month. The prices used shall be the price (using the midpoint of any price range as one price) reported each week as the daily price for the day on which reported, and for each preceding work-day until the day such price was previously reported.

**§ 1139.20 Federation.**

Federation means a business organization which is incorporated under state law that is owned and operated by two or more cooperative associations as defined in § 1139.18.

**Handler Reports**

**§ 1139.30 Reports of receipts and utilization.**

On or before the seventh day after the end of the month, each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, the following information for such month:

(a) Each handler who operates one or more pool plants shall report for each such plant the quantities of, and the pounds of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler, and the pounds of milk protein contained in such receipts;

(2) Receipts of milk from handlers defined in § 1139.9(c) and the pounds of milk protein contained in such receipts;

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1139.40(b)(1); and

(6) The utilization, disposition or month-end inventories of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plan shall report with respect to such plant in the same manner as prescribed for reports required under paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk.

(c) Each handler as defined in § 1139.9(b) and (c) shall report:

(1) The quantities of, and pounds of skim milk, butterfat and milk protein contained in receipts of milk from producers; and

(2) The utilization or disposition of all skim milk, butterfat and milk protein in such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to all receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1139.31 Payroll reports.**

(a) On or before the 21st day after the end of each month, each handler who pays producers pursuant to § 1139.74 shall submit a producer payroll to the market administrator which shall include the following information for each producer from whom milk was received during such month:

(1) The name and address of the producer;

(2) The total pounds and, with respect to final payments, the average butterfat and milk protein content of the milk, and the number of days on which milk was received from each producer;

(3) The minimum payment required by the order, and the amount paid if more than the minimum required;

(4) The amount and nature of any deductions from such payment;

(5) The net amount of payment to the producer; and

(6) The date the payment was made.

(b) On or before the 21st day after the end of the month, each handler operating a partially regulated distributing plant who elects to make payments pursuant to § 1139.76(a)(2) shall report to the market administrator with respect to milk received from each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1139.32 Other reports.**

In addition to the reports required pursuant to §§ 1139.30 and 1139.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligations under this order.

**Classification of Milk**

**§ 1139.40 Classes of utilization.**

Except as provided in § 1139.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1139.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all butterfat and skim milk:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all butterfat and skim milk:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese (all forms);

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, or aseptically packaged and hermetically sealed in foil-lined paper containers.

(c) *Class III milk.* Class III milk shall be all butterfat and skim milk:

(1) Used to produce:

(i) Cheese, other than cottage cheese in any form;

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

(v) Evaporated milk or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any other dairy product not otherwise specified in this section.

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form, and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim in such product that was included within the fluid milk product definition pursuant to § 1139.15;

(6) In shrinkage assigned pursuant to § 1139.41(a) to the receipts specified in § 1139.41(a)(2) and in shrinkage specified in § 1139.41(b) and (c).

**§ 1139.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1139.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim and butterfat, respectively, at each pool plant to the respective qualities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraphs (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product.

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator, or received from handlers defined in § 1139.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from handlers defined in § 1139.9(c), except if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and protein and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and protein and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective quantities of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section, and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association or federation is the handler pursuant to § 1139.9(b) or (c), but not in excess of 0.5 percent of skim milk and butterfat, respectively, thereof. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and protein and butterfat tests determined from farm bulk tank samples, the applicable percentage for the cooperative association or federation shall be zero.

**§ 1139.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk and butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computation pursuant to § 1139.44 (a)(12) and the corresponding step of § 1139.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1139.44(a)(7) or the corresponding step of § 1139.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1139.44(a)(11) or (12) or the corresponding steps of § 1139.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater

extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1),(2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustments when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1139.40.

(c) *Transfers and diversions to producer-handlers and to exempt plants.* Skim milk or butterfat in the following forms that is transferred or diverted to a producer-handler under this or any other Federal order or to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transfere's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the transferor-handler or divertor-handler so requests and the conditions described in paragraphs (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignments of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1139.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plants;

(*b*) Pro rata to any receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of approved milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of approved milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of approved milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and

bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

**§ 1139.43 General accounting and classification rules.**

(a) Each month the market administrator shall:

(1) Correct for mathematical and other obvious errors all reports filed pursuant to § 1139.30; and

(2) Compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1139.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1139.40, 1139.41, and 1139.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1139.9 (b) or (c) shall be such handler's classification of producer milk.

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1139.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1139.44 Classification of producer milk.**

For each month the market administrator shall determine for each handler defined in § 1139.9(a) for each pool plant of the handler separately the classification of producer milk and milk received from a handler described in § 1139.9(c) by allocating the handler's receipts of skim milk and butterfat to the utilization of such receipts by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1139.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1139.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1139.40(b)(1) that were in inventory at the beginning of the month in packaged form but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1139.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and packaged inventory at the beginning of the month of products specified in § 1139.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which approved milk status is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order, or from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of milk from a dairy farmer pursuant to § 1139.12(b)(4);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III;

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (a)(7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (a)(7)(v), and (a)(8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii)(*a*) through (*c*) this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1139.9(c), fluid milk products from pool plants of other

handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1139.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(5) and (a)(7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (a)(7)(v), and (a)(8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this paragraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(vi) and (a)(8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12) (ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1139.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to either paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such excess quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1139.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1139.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1139.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to (a)(14) of this section and the corresponding step of paragraph (b) of this section.

**§ 1139.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1139.44(a)(12) and the corresponding step of § 1139.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1139.44 on the

basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) Report to each cooperative association that so requests, on or before the 12th day after the end of each month, the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purposes of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

**Class and Component Prices**

**§ 1139.50 Class prices and component prices.**

Subject to the provisions of § 1139.51 and § 1139.52, the class and component prices for the month, per hundredweight or per pound, shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.90.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division, Agricultural Marketing Service, USDA, and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1139.51(b) for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price for the month.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

(d) *Butterfat price.* The butterfat price per pound shall be a figure computed as follows: Subtract from the basic formula price an amount computed by multiplying the current month's butter price, based on the simple average of the wholesale selling prices per pound (using the mid-point of any price range as one price) of approved (92-score) bulk butter, f.o.b. Chicago, as reported by the Department for the month, by 4.025, and divide by 100. Add to the resulting amount the current month's butter price multiplied by 1.15. The sum thereof shall be the price per pound for producer butterfat for the month.

(e) *Milk protein price.* The price for milk protein per pound shall be computed by subtracting from the basic formula price for butterfat price multiplied by 3.5, and dividing the result by the average percentage of protein in all producer milk for the preceding month.

(f) *Skim milk price.* The skim milk price per hundredweight shall be the basic formula price for the month adjusted to remove the value of 3.5 percent butterfat and rounded to the nearest cent. Such adjustment shall be computed by multiplying the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of approved (92-score) bulk butter per pound at Chicago, as reported by the Department for the month, by 4.025 and subtracting the result from the basic formula price.

**§ 1139.51 Basic formula prices.**

(a) The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of approved (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

(b) The "basic Class II formula price" for the month shall be the basic formula price for the second preceding month plus or minus the amount computed pursuant to paragraphs (b)(1) through (4) of this section.

(1) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1139.19 and yield factors in effect under the Dairy Price Support program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(i) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(*a*) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(*b*) Multiply the butter price by the yield factor used under the Price Support program for determining the butterfat component of the whey value in the cheese price computation; and

(*c*) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(ii) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(*a*) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(*b*) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(2) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(3) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b)(2) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (b)(3) (i) and (ii) of this section:

(i) Combine the total production of American cheese for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(ii) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to

determine the quantity of milk used in the production of butter-nonfat dry milk.

(4) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b)(2) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (b)(3) of this section.

**§ 1139.52 Plant location adjustments for handlers.**

(a) The Class I price shall be adjusted for plants located in the zones set forth below as follows:

(1) *Zone 1* 0 adjustments.

Utah Counties

Box Elder, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Grand, Jaub, Millard, Morgan, Rich, Salt Lake, Sanpete, Sevier, Summit, Tooele, Uinta, Utah, Wasatch and Weber

Nevada Counties

Elko and White Pine

(2) *Zone 2* Minus $0.25 adjustment.

Idaho Counties

Bannock, Bear Lake, Caribou, Franklin, Oneida and Power

(3) *Zone 3* Minus $0.30 adjustment.

Idaho Counties

Bingham, Bonneville, Jefferson and Madison

Wyoming Counties

Lincoln and Uinta

Nevada Counties

Clark and Lincoln

Utah Counties

Beaver, Garfield, Iron, Kane, Piute, San Juan, Washington and Wayne

(b) For milk received from producers at a plant located outside the zones specified in paragraph (a) of this section, the Class I price applicable at the nearer of the Clark County, Nevada, courthouse or the Salt Lake County, Utah, courthouse shall be reduced by 1.5 cents per hundredweight for each ten miles or fraction thereof distance by shortest hard-surfaced highway, as determined by the market administrator, between the plant and the nearer of the two courthouses.

(c) For purposes of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any Class I utilization at the transferee plant that is in excess of the sum of receipts at such plant from producers and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to receipts from plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(d) The Class I differential applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) or (b) of this section, except that the differential shall not be less than zero.

**§ 1139.53 Announcement of class and component prices.**

The market administrator shall announce publicly on or before:

(a) The 5th day of each month, the Class I price for the following month;

(b) The 15th day of each month, the tentative Class II price for the following month; and

(c) The 5th day after the end of each month, the Class III price, the prices for butterfat, milk protein and skim milk computed pursuant to § 1139.50 (d), (e) and (f), and the final Class II price for such month.

**§ 1139.54 Equivalent price.**

If for any reason a price or pricing constituent required by this order for computing class prices or for other purposes is not available as prescribed in this order, the market administator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

**Differential Pool and Handler Obligations**

**§ 1139.60 Computation of handlers' obligations to pool.**

The market administrator shall compute each month for each handler defined in § 1139.9(a) with respect to each of such handler's pool plants, and for each handler defined in § 1139.9(b) and (c), an obligation to the pool computed by adding the following values:

(a) The pounds of producer milk in Class I as determined pursuant to § 1139.44 multiplied by the difference between the Class I price (adjusted pursuant to § 1139.52) and the Class III price;

(b) The pounds of producer milk in Class II as determined pursuant to § 1139.44 multiplied by the difference between the Class II price and Class III price;

(c) The value of the product pounds, skim milk, and butterfat in overage assigned to each class pursuant to § 1139.44(a)(14) and the value of the corresponding protein pounds associated with the skim milk subtracted from Class II and Class III pursuant to § 1139.44(a)(14), by multiplying the skim milk pounds so assigned by the percentage of protein in the handler's receipts of producer skim milk during the month, as follows:

(1) The hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(14) and the corresponding step of § 1139.44(b), multiplied by the difference between the Class I price adjusted for location and the Class III price, plus the hundredweight of skim milk subtracted from Class I pursuant to § 1139.44(a)(14) multiplied by the skim milk price, plus the butterfat pounds of overage subtracted from Class I pursuant to § 1139.44(b) multiplied by the butterfat price;

(2) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1139.44(a)(14) and the corresponding step of § 1139.44(b) multiplied by the difference between the Class II price and the Class III price, plus the protein pounds in skim milk subtracted from Class II pursuant to § 1139.44(a)(14) multiplied by the protein price, plus the butterfat pounds of overage subtracted from Class II pursuant to § 1139.44(b) multiplied by the butterfat price;

(3) The protein pounds in skim milk overage subtracted from Class III pursuant to § 1139.44(a)(14) multiplied by the protein price, plus the butterfat pounds of overage subtracted from Class III pursuant to § 1139.44(b) multiplied by the butterfat price;

(d) The value of the product pounds, skim milk, and butterfat subtracted from Class I or Class II pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b), and the value of the protein pounds associated with the skim milk subtracted from Class II pursuant to § 1139.44(a)(9), computed by multiplying the skim milk pounds so subtracted by the percentage of protein in the handler's receipts of producer skim milk during the previous month, as follows:

(1) The value of the product pounds, skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b) applicable at the location of the pool plant at the current month's Class I-Class III price difference and the current month's skim milk and butterfat prices, less the Class III value of the milk at the previous month's protein and butterfat prices;

(2) The value of the hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1139.44(a)(9) and the corresponding step of § 1139.44(b) at the current month's Class II-Class III price difference and the current month's

protein and butterfat prices, less the Class III value of the milk at the previous month's protein and butterfat prices;

(e) The value of the product pounds, skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(7) (i) through (iv) and (vii), and the corresponding step of § 1139.44(b), excluding receipts of bulk fluid cream products from another order plant, applicable at the location of the pool plant at the current month's Class I-Class III price difference;

(f) The value of the product pounds, skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(7) (v) and (vi) and the corresponding step of § 1139.44(b) applicable at the location of the transferor-plant at the current month's Class I-Class III price difference;

(g) The value of the product pounds, skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(11) and the corresponding step of § 1139.44(b), excluding such hundredweight in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent quantity disposed of to such plant by handlers fully regulated by any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order, applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received at the current month's Class I-Class III price difference.

(h) The pounds of skim milk in Class I producer milk, as determined pursuant to § 1139.44, multiplied by the skim milk price for the month computed pursuant to § 1139.50(f).

(i) The pounds of protein in skim milk in Class II and Class III, computed by multiplying the skim milk pounds so assigned by the percentage of protein in the handler's receipts of producer skim milk during the month for each report filed, separately, multiplied by the protein price for the month computed pursuant to § 1139.50(e).

**§ 1139.61 Computation of weighted average differential value.**

For each month the market administrator shall compute the weighted average differential value for milk received from all producers as follows:

(a) Combine into one total the values computed pursuant to § 1139.60, paragraphs (a) through (g), for all handlers who made reports pursuant to § 1139.30 and who made payments pursuant to § 1139.71 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1136.75;

(c) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk;

(2) The total hundredweight for which a value is computed pursuant to § 1139.60(g).

(e) Subtract not more than 5 cents per hundredweight. The result is the "Weighted Average Differential Price".

**§ 1139.62 Computation of producer protein price.**

For each month the market administrator shall compute the producer protein price to be paid to all producers for the pounds of protein in their milk, as follows:

(a) Combine into one total the values computed pursuant to § 1139.60, paragraphs (h) and (i), for all handlers who made reports pursuant to § 1139.30 and who made payments pursuant to § 1139.71 for the preceding month;

(b) Divide the resulting amount by the total pounds of protein in producer milk; and

(c) Round to the nearest whole cent. The result is the "Producer protein price."

**§ 1139.63 Uniform price and handlers' obligations for producer milk.**

(a) A uniform price for producer milk containing 3.5 percent butterfat shall be computed by adding the weighted average differential price determined pursuant to § 1139.61 to the basic formula price for the month.

(b) Handler obligations to producers and cooperative associations for producer milk shall be determined in accordance with the provisions of §§ 1139.73 and 1139.74.

**§ 1139.64 Announcement of weighted average differential price, producer protein price, and uniform price.**

The market administrator shall announce publicly on or before the 12th day after the end of the month the weighted average differential price computed pursuant to § 1139.61, the producer protein price computed pursuant to § 1139.62, and the uniform price computed pursuant to § 1139.63(a).

## Payments for Milk

**§ 1139.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit payments made by handlers pursuant to §§ 1139.71, 1139.76 and 1139.77, subject to the provisions of § 1139.78, and out of which he shall make payments pursuant to §§ 1139.72 and 1139.77. Payment due a handler from the fund shall be offset as appropriate against payments due from such handler.

**§ 1139.71 Payments to the producer-settlement fund.**

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total obligation of the handler for such month as determined pursuant to § 1139.60.

(2) The sum of:

(i) The value of such handler's receipts of producer milk and milk received from a handler defined in § 1139.9(c) at the weighted average differential price adjusted pursuant to § 1139.75; and

(ii) The value of the protein in such handler's receipts of producer milk and milk received from a handler defined in § 1139.9(c) at the producer protein price computed pursuant to § 1139.62; and

(iii) The value at the weighted average differential price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1139.60(g).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route dispositions from such plant in the marketing area which was allocated to Class I at such plant; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price f.o.b. the other order plant and the Class III price.

**§ 1139.72 Payments from the producer-settlement fund.**

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1139.71(a)(2)

exceeds the amount computed pursuant to § 1139.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as funds are available.

**§ 1139.73 Value of producer milk.**

(a) The partial payment for milk received from each producer during the first 15 days of the month shall be determined by a rate computed by multiplying the Class III price for the preceding month by 1.2, but not to exceed the current month's Class I price.

(b) The total value of milk received from producers during any month shall be computed as follows:

(1) The weighted average differential price computed pursuant to § 1139.61 subject to the appropriate plant location adjustment times the total hundredweight of milk received from the producer; plus

(2) The total milk protein contained in the producer milk received from the producer multiplied by the producer protein price computed pursuant to § 1139.62; plus

(3) The total butterfat contained in the producer milk received from the producer times the butterfat price computed pursuant to § 1139.50(d).

**§ 1139.74 Payments to producers and to cooperative associations.**

(a) Except as provided in paragraph (c), (d) or (e) of this section, each handler shall, on or before the last day of each month, make a partial payment to each producer from whom milk was received during the first 15 days of the month, and who had shipped milk to such handler through the 17th day of the month, at the rate set forth in § 1139.73(a), less proper deductions authorized in writing by such producer;

(b) Except as provided in paragraph (c), (d) or (e) of this section, each handler shall, on or before the 17th day of the following month, make a final payment to each producer for milk received from such producer during the month at no less than the total amount computed in accordance with the provisions set forth in § 1139.73(b) with respect to such milk:

(1) Less any deductions for marketing services pursuant to § 1139.86;

(2) Less payment made pursuant to paragraph (a) of this section for such month;

(3) Less proper deductions authorized in writing by such producer;

(4) Plus or minus adjustments for errors made in previous payments to such producer and proper deductions authorized in writing by such producer; and

(5) If by the date specified such handler has not received full payment from the market administrator pursuant to § 1139.72 for such month, the handler may reduce his payments to producers pro rata by not more than the amount of such underpayment. Payments to producers shall be completed thereafter no later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(c) In the case of a cooperative association authorized by its members to collect payment for their milk, and which has requested such payment from any handler in writing and has so notified the market administrator, payment shall be made for milk received during the month as follows:

(1) On or before the 3rd day prior the last day of the month for milk received from the members of such cooperative association at the rates set forth in § 1139.73(a); and

(2) On or before the 16th day of the following month such handler shall pay to such cooperative association the sum of the payments computed in accordance with the procedures set forth in § 1139.73(b) with respect to deliveries by producer-members of such cooperative association to handler(s) from whom payment has been requested, less the amounts of payments made to such cooperative association pursuant to paragraph (c)(1) of this section, and less the amount retained by handlers as authorized deductions.

(d) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (c) of this section shall report to such cooperative association and to the market administrator on or before the 7th day of the following month as follows:

(1) The total pounds of milk received during the month and, if requested, the pounds received from each member-producer;

(2) The amount of payment made pursuant to paragraph (c)(1) of this section and the quantity of milk to which such payment applied; and

(3) The amount or rate and nature of any proper deductions authorized to be made from such payments.

(e) Each handler shall pay a cooperative association for milk received from such cooperative association in its capacity as a handler defined in § 1139.9(c), or from a pool plant operated by such association as follows:

(1) On or before the 2nd day prior to the last day of each month for milk received during the first 15 days of the month an amount per hundredweight computed pursuant to the provisions of § 1139.73(a); and

(2) On or before the 15th day of the following month for milk received during the month at not less than the value computed for such milk in accordance with the provisions under § 1139.73(b), less the amounts of payments made to such cooperative association pursuant to paragraph (e)(1) of this section, and less the amount retained by handlers as authorized deductions.

**§ 1139.75 Location and zone differentials for producer and nonpool milk.**

(a) In making payments computed pursuant to § 1139.72, the market administrator shall reduce the weighted average differential price computed pursuant to § 1139.61 by the location or zone differential applicable at the plant where such milk was first received from producers.

(b) The weighted average differential price applicable to other source milk pursuant to § 1139.71(a)(2)(iii) shall be adjusted at the rates set forth in § 1139.52 (a) or (b) applicable at the location of the nonpool plant from which the milk was received (but not to be less than zero).

**§ 1139.76 Payments by a handler operating a partially regulated distributing plant.**

(a) Each handler who operates a partially regulated distributing plant that is not subject to a milk classification and pricing program that provides for marketwide pooling of producer returns and is enforced under the authority of a state government shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a)(1) of this section, or, if the handler submits pursuant to §§ 1139.30(b) and 1139.31(b) the information necessary for making the appropriate computations, and so elects, the amount computed pursuant to paragraph (a)(2) of this section:

(1) An amount computed as follows:

(i) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(ii) Subtract the pounds of fluid milk products received at the partially regulated distributing plant;

(*a*) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(*b*) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(iii) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(iv) Multiply the remaining pounds by the amount the Class I-Class III price difference exceeds the weighted average differential computed pursuant to § 1139.61 as adjusted by the appropriate location or zone differential (but in no case less than 0);

(v) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(1)(iii) of this section by the difference between the Class I price adjusted to the appropriate plant location and the Class III price (but in no case less than 0).

(2) An amount computed as follows:

(i) Determine the value that would have been computed pursuant to § 1139.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(*a*) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which products were classified at the fully regulated plant;

(*b*) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (a)(2)(i)(*a*) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1139.60(e) shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price (or weighted average price) adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order;

(*c*) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1139.60 for such handler shall include in lieu of the value of other source milk specified in § 1139.60(g) less the value of such other source milk specified in § 1139.71(a)(2)(iii) a value of milk determined pursuant to § 1139.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1139.7(c) subject to the following conditions:

(*1*) The operator of the partially regulated distributing plant submits with reports filed for the month pursuant to §§ 1139.30(b) and 1139.31(b) similar reports for each nonpool supply plant;

(*2*) The operator of such nonpool supply plant maintains books and records showing the utilization of all milk and milk products received at such plant which are made available if requested by the market administrator for verification purposes; and

(*3*) The value of milk determined pursuant to § 1139.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(ii) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (a)(2)(i) of this section, subtract:

(*a*) The gross payment made by the operator of such partially regulated distributing plant, less the value of the butterfat at the butterfat price specified in § 1139.50(d), for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(*b*) If paragraph (a)(2)(i)(*c*) of this section applies, the gross payments by the operator of such nonpool supply plant, less the value of the butterfat at the butterfat price specified in § 1139.50(d), for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(*c*) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant, and like payments by the operator of the nonpool supply plant if paragraph (a)(2)(i)(*c*) of this section applies.

(b) Each handler who operates a partially regulated distributing plant which is subject to marketwide pooling of returns under a milk classification and pricing program that is imposed under the authority of the state government shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund an amount computed as follows:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subract the pounds of fluid milk products received at the partially regulated distributing plant;

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision under another Federal milk order;

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plants by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offfset for any other payment obligation under any order;

(3) Determine the value of the remaining pounds according to the difference between the appropriate Class prices applicable at the location of the partially regulated distributing plant (but not to be less than zero) as announced by the State order and as determined pursuant to § 1139.50.

**§ 1139.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in mony due a producer, a cooperative association, or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due, and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

**§ 1139.78 Charges on overdue accounts.**

(a) Any unpaid balance due from a handler pursuant to §§ 1139.71, 1139.76, 1139.77, 1139.85 and 1139.86, or under this section shall be increased 1% per month on the next day following the due date of such unpaid obligation and any balance remaining unpaid shall likewise be increased on the first day of each month thereafter until paid.

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

**Administrative Assessment and Marketing Service Deduction**

**§ 1139.85 Assessment for order administration.**

A pro rata share of the expense of administration of the order shall be paid to the market administrator by each handler on or before the 14th day after the end of the month at the rate of 4 cents per hundredweight, or such lesser amount as the secretary may prescribe, with respect to:

(a) Producer milk (including milk received from a handler defined in § 1139.9(c), but excluding in the case of a cooperative association which is a handler pursuant to § 1139.9(c), milk which was received at the pool plant of another handler) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1139.44(a)(7) and (11) and the corresponding steps of § 1139.44(b), except such other source milk that is excluded from the computations pursuant to § 1139.60(d) and (g);

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the quantity subtracted pursuant to § 1139.76(a)(1)(ii).

**§ 1139.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk pursuant to § 1139.74 (other than milk of the handler's own production) shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month.

(b) The monies acquired by the market administrator pursuant to paragraph (a) of this section shall be expended by the market administrator to provide market information, and to verify or establish the weights, samples and tests of milk of any producer for whom a cooperative association is not performing the same services on a comparable basis as determined by the Secretary.

Signed at Washington, DC, on February 10, 1988.

**Kenneth A. Gilles,**

*Assistant Secretary for Marketing and Inspection Services.*

[FR Doc. 88-3289 Filed 2-16-88; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 87-CE-19-AD; Amendment 39-5847]**

## Airworthiness Directives; Beech 200 and 300 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action revises Airworthiness Directive (AD) 87-17-05, Amendment 39-5708 (52 FR 44376), applicable to certain models of the Beech 200 and 300 Series airplanes. This revision is necessary because information concerning the supersedure of AD 84-24-01 was omitted from the AD when a correction to the AD was accomplished.

**EFFECTIVE DATE:** February 17, 1988.

Compliance: As prescribed in the body of the AD.

**ADDRESSES:** Beech Service Bulletin No. 2040, Rev. 1, dated March 1987, and Beech Service Instructions No. C-12-0094, Rev. 1, dated February 1987 may be obtained from Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201; Telephone (316) 681-9111. This information may be examined at the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Don Campbell, Aerospace Engineer, Airframe Branch, ACE-120W, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

**SUPPLEMENTARY INFORMATION:** Subsequent to the issuance of a correction to Airworthiness Directive (AD) 87-17-05, Amendment 39-5708 (52 FR 44376; November 19, 1987), applicable to Beech 200 and 300 Series airplanes, it was discovered that information pertaining to the supersedure of AD 84-24-01 had been inadvertently omitted from the corrected AD when the AD was published in the **Federal Register**. Therefore action is taken herein to make this editorial change.

Since this amendment only clarifies the intent of the corrected AD, it imposes no additional burden on the public. Therefore, notice and public procedure hereon are unnecessary and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aviation safety, Aircraft, Safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

**PART 39—[AMENDED]**

1. The authority citation for Part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

**§ 39.13 [Amended]**

2. By revising and reissuing AD 87-17-05, Amendment 39-5708 (52 FR 44376; November 19, 1987), to read as follows:

**Beech:** Applies to Models 200 and B200 (Serial Nos. (S/Ns) BB-2 thru BB-1200 except BB-627, BB-647, BB-665, BB-798, BB-823, BB-1158, and BB-1167); 200C and B200C (S/Ns BL-7 thru BL- 93 except BL-67, BL-72, BL-86, BL-87, BL-90, BL-91, BL-92, and BL-124 thru BL-127); 200CT and B200CT (S/Ns BN-1 thru BN-4); 200T and B200T (S/Ns BT-18 thru BT-30 except BT-19); A200CT (S/Ns BP-1, BP-7 thru BP-11, BP-22, BP-24 thru BP-45, GR-1 thru GR-13 and FC-1 thru FC 3); A200C (S/Ns BJ-1 thru BJ-66); and 300 (S/Ns FA-1 thru FA-19 except FA-17) airplanes certificated in any category.

Note 1.—The subject panels may have been installed as orginal equipment or as replacement spares. The Beech Service Bulletins referred in this AD contain explanatory material relating to this topic.

*Compliance:* Required as indicated after the effective date of this AD unless previously accomplished.

To assure the continued structural integrity of the wing fuel bay upper skin panels, accomplish the following:

(a) Within the next 75 hours time-in-service (TIS) or six calendar months, whichever occurs first, unless previously accomplished within the last 225 hours TIS or six calendar months per AD 84-24-01, and thereafter at intervals not to exceed 300 hours TIS or six calendar months, whichever occurs first, inspect the wing center section fuel bay upper skin panels for possible debonding in accordance with Beech Service Bulletin No. 2040, Rev. 1, dated March 1987 (for civil registered airplanes) or Beech Service

Instructions No. C-12-0094, Rev. 1, dated February 1987, (for military airplanes).

(1) If no debonding is detected, prior to further flight, accomplish the actions of paragraph (b) below.

(2) If debonding is detected in either panel, prior to further flight modify the discrepant panel by installation of Kit No. 101-4032-1 (L.H.) or 101-4032-3 (R.H.), and the accomplishment of the actions of paragraph (b) below, or by installation of replacement skin panel P/N 101-120108-603 (L.H.) or -604 (R.H.).

(3) If debonding is detected in a panel which was previously repaired per paragraph (a)(2) above or AD 84-24-01, prior to further flight remove the discepant panel and install a replacement skin panel P/N 101-120108-603 (L.H.) or -604 (R.H.) as applicable.

(b) Seal all accessible blind rivets in both wing center section fuel bay upper skin panels as described in Service Bulletin No. 2040, Rev. 1, dated March 1987, or Service Instructions No. C-12-0094, Rev. 1, dated February 1987 (as applicable).

Note 2.—Resealing of these blind rivets is recommended anytime paint is removed from this area.

(c) The requirements of this AD are no longer required when skin panels P/N 101-120108-603 (L.H.) or -604 (R.H.) have been installed.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4400.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Department 52, Wichita, Kansas 67201-0085; or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment revises the correction of AD 87-17-05, Amendment 39-5708 (52 FR 44376; November 19, 1987), which corrected AD 87-17-05, Amendment 39-5708 (52 FR 33224; September 2, 1987), which superseded AD 84-24-01, Amendment 39-4958.

This amendment becomes effective February 17, 1988.

Issued in Kansas City, Missouri, on January 29, 1988.

**Jerold M. Chavkin,**

*Acting Director, Central Region.*

[FR Doc. 88-3249 Filed 2-16-88; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Part 39

**[Docket No. 85-ANE-15; Amendment 39-5852]**

## Airworthiness Directives; Wytwornia Sprzetu Komunikacyjnego "PZL-RZESZOW" PZL-3S Piston Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain PZL-3S piston engines by individual priority letter AD 86-10-12. The AD requires initial and repetitive visual inspection of the rear counterweight system and the replacement of certain parts. Also, this action clarifies the requirements of the AD and includes a note to address those engines which are designated as PZL-3S 2nd Series. The AD is needed to prevent failure of the propeller retention bolts which could result in separation of the propeller from the aircraft.

**DATES:** Effective March 2, 1988, as to all persons except those to whom it was made immediately effective by individual priority letter AD 86-10-12, issued May 21, 1986, which contained this amendment.

Compliance Schedule—As prescribed in the body of the AD.

**FOR FURTHER INFORMATION CONTACT:** Kenneth W. Steeves, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7097.

**SUPPLEMENTARY INFORMATION:** On May 21, 1986, priority letter AD 86-10-12 was issued and made effective immediately as to all known U.S. owners and operators of certain PZL-3S piston engines. The AD requires initial and repetitive visual inspection of the rear counterweight system and replacement of certain parts if distress is found. This action was prompted by failure of the propeller retention bolts as a result of damage to the rear counterweight system. The AD was needed to prevent separation of the propeller from the aircraft.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual priority letters, issued May 21, 1986, to all known U.S. owners and operators of certain PZL-3S piston engines. These conditions still exist, and the AD, revised with some changes for clarity and to include a note to address those engines which are designated as PZL-3S 2nd Series, is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

### Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

### List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

## PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

### § 39.13 [Amended].

2. By adding to § 39.13 the following new airworthiness directive (AD):

**Wytwornia Sprzetu Komunikacyjnego "PZL-RZESZOW":** Applies to Wytwornia Sprzetu Komunikacyjnego "PZL-RZESZOW" PZL-3S piston engines.

Note.—This AD does not apply to those PZL-3S piston engine models which are designated as the PZL-3S 2nd Series.

Compliance is required as indicated, unless already accomplished.

To prevent separation of the propeller from the aircraft, accomplish the following:

(a) For engines with 275 hours or more since new, since overhaul, or since compliance with AD 83-21-01, Amendment 39-4743 (48 FR 48222), on the effective date of this AD, perform the following within 25 hours after the effective date of this AD:

(1) Disassemble and visually inspect for distress of the rear crankshaft, rear counterweight, and rear counterweight pins.

(2) If any distress is found in the rear crankshaft, rear counterweight, or rear counterweight pins, replace distressed parts with new parts and replace the propeller attachment bolts and dowel pins with new parts.

(b) For engines with less than 275 hours since new, since overhaul, or since compliance with AD 83-21-01 on the effective date of this AD, perform a(1) and a(2) above prior to reaching 300 hours since new, since overhaul, or since compliance with AD 83-21-01.

(c) Thereafter, perform a(1) and a(2) above at intervals not to exceed 300 hours since last accomplishment.

Note.—Distress which has been observed during previous engine inspections includes wear, galling, pitting, scoring, and discoloration (blue color) of the counterweight pins.

(d) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

(f) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

This amendment becomes effective on March 2, 1988, as to all persons except those persons to whom it was made immediately effective by individual priority letter AD 86-10-12, issued May 21, 1986, which contained this amendment.

Issued in Burlington, Massachusetts, on February 8, 1988.

**Timothy P. Forte,**

*Acting Director, New England Region.*

[FR Doc. 88-3239 Filed 2-16-88; 8:45 am]

BILLING CODE 4910-13-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 14 CFR Part 1207

### Standards of Conduct

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** This rule prescribes regulations for the maintenance of the high ethical standard of conduct required for NASA employees in carrying out their duties and responsibilities. This action corrects the paragraph cite referenced in § 1207.403(b)(2). It also corrects § 1207.405 by adding a new paragraph (a)(4) to list Contracting Officers below the GM-13 or GS-13 level for filing confidential statements of employment and financial interests. On November 13, 1987, the Office of Government Ethics approved the addition of Contracting Officers to this list.

**EFFECTIVE DATE:** February 17, 1988.

**ADDRESS:** Office of General Counsel, NASA Headquarters, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth N. Siegel, 202-453-2465.

**SUPPLEMENTARY INFORMATION:** To ensure conformity to the Ethics in Government Act of 1987, NASA published its revised regulations in the **Federal Register** on June 16, 1987 (52 FR 22755) and a correction to S1207.405 was published in the **Federal Register** on September 28, 1987 (52 FR 36234).

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-602, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

**List of Subjects in 14 CFR Part 1207.**

Administrative practice and procedures, Conflict of interest.

For reasons set forth in the preamble, 14 CFR Part 1207 is amended as follows:

1. The authority citation for Part 1207 continues to read as follows:

Authority: Ethics in Government Act of 1987, as amended by Pub. L. 96-19 and Pub. L. 96-28; EO 11222; 18 U.S.C. 201-219; 2 U.S.C. 441i; 5 CFR Parts 734, 735, 755, and 738.

2. Section 1207.403 is amended by revising paragraph (b)(2) to read as follows:

**§ 1207.403 [Amended]**

* * * * *

(b) * * *

(2) If a NASA employee or the employee's spouse or minor child has a present beneficial interest or a vested remainder interest under a trust, the ownership of stocks, bonds, or other corporate securities under the trust will be exempt to the same extent as provided in paragraph (b)(1)(i) of this section for the direct ownership of such securities. The ownership of bonds other than corporate bonds, or of shares in a mutual fund or regulated investment company, under the trust will be exempt to the same extent as provided under paragraphs (b)(1)(ii) and (b)(1)(iii) for the direct ownership of such bonds or shares.

(3) Section 1207.405 is amended by redesignating paragraph (a)(4) as (a)(5) and adding new paragraph (a)(4) to read as follows:

**§ 1207.405 Confidential statements of employment and financial interests.**

(a) * * *

(4) Employees classified below the GM-13 or GS-13 level under 5 U.S.C. 5332 who are appointed as Contracting Officers.

(5) Employees classified below the GM-13 or GS-13 level under 5 U.S.C. 5332, or at a comparable pay level under other authority, and who are in positions which otherwise meet the criteria of § 1207.405(a)(1) or § 1207.405(a)(3), when designated in writing by the Designated Ethics Official, after such designation has been justified in accordance with 5 CFR 735.403(d).

**James C. Fletcher,**

*Administrator.*

February 5, 1988.

[FR Doc. 88-3010 Filed 2-16-88; 8:45 am]

BILLING CODE 7510-01-M

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Parts 1, 145, and 147

### Financial Reporting Requirements for Futures Commission Merchants and Introducing Brokers

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") has adopted amendments to its financial reporting requirements for futures commission merchants ("FCMs") and applicants for registration as FCMs and

those introducing brokers ("IBs") and applicants for registration as IBs not operating or intending to operate pursuant to a guarantee agreement (*i.e.*, independent IBs). The rule amendments were adopted in conjunction with the development of new financial reporting forms, Form 1–FR–FCM and Form 1–FR–IB, to replace the old Form 1–FR.

Amendments to the financial reporting rules and the financial reporting form have been necessitated by the Commission's recent adoption of rules to govern foreign futures and foreign options transactions. Those rules introduced the concept of a secured amount of funds held in separate accounts for foreign futures and options customers, which requires the addition of a separate schedule on the financial reporting form for FCMs to report information related to the secured amount. Since the secured amount also affects an FCM's minimum adjusted net capital requirement, certain line items on other financial statements are also affected.

The Commission created the new Form 1–FR–IB largely in response to requests from the National Futures Association ("NFA") for a financial reporting form shorter than the old Form 1–FR, which was used by both FCMs and IBs, that is tailored specifically to independent IBs. Such IBs now have the option of filing the new Form 1–FR–IB in lieu of the new Form 1–FR–FCM, which is similar to the old Form 1–FR. The Commission further adopted conforming amendments to its rules under the Freedom of Information Act ("FOIA") and Government in the Sunshine Act ("GINSA") to set forth which portions of the new 1–FR forms will generally not be made public or released under the FOIA or discussed at open Commission meetings. The Commission also has determined not to include an additional Statement of Financial and Operational Data in the new Form 1–FR–FCM and Form 1–FR–IB at this time and will give further consideration to such a statement. Since the new Form 1–FR–FCM and Form 1–FR–IB will not appear in the Code of Federal Regulations, they are not reprinted here but may be obtained from the Commission's regional offices in New York, Chicago and Kansas City.

**EFFECTIVE DATE:** March 3, 1988.

**FOR FURTHER INFORMATION CONTACT:** Paul H. Bjarnason, Jr., Deputy Director, or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, at the above address, telephone: (202) 254–8955, or Henry J. Matecki, Branch Chief, Central Region, Audit and Financial Review Unit, Division of Trading and Markets, 233 South Wacker Drive, Suite 4600, Chicago, Illinois 60606, telephone: (312) 353–6642.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Commission's recent adoption of rules to govern foreign futures and foreign options transactions, 52 FR 28980 (August 5, 1987), which became effective on February 1, 1988, 52 FR 48811 (December 28, 1987), requires FCMs to maintain in a separate account the foreign futures or foreign options secured amount on behalf of foreign futures and options customers. The requirements related to the secured amount, which are more fully described in the August 5 **Federal Register** release and later in this release, are somewhat similar to an FCM's segregation requirements with respect to customer funds related to trades on domestic contract markets or dealer options, but the secured amount requirements are not the same as the segregation requirements. Therefore, the Commission needed to amend its financial reporting form for FCMs to include a new statement of secured amounts and funds held in separate accounts for foreign futures and foreign options customers. The Commission proposed to do so and to make certain other minor, technical changes in its financial reporting and recordkeeping requirements for FCMs and IBs, as described below. 52 FR 44413 (November 19, 1987). The Commission received seven written comments, three from contract markets, three from FCMs, and one from an accounting firm. The Commission has reviewed the comments received in response to that notice of proposed rulemaking and has determined to adopt the rule amendments essentially as proposed, with certain minor adjustments described below.

## II. Foreign Futures and Foreign Options Secured Amount

The Commission originally proposed a separate segregation rule to govern the treatment of foreign futures or foreign options customer funds, which would have imposed upon FCMs carrying foreign futures or options customer funds virtually the same obligations with respect to funds in their possession as they have with respect to domestic futures or options customer funds as long as such funds are held in the United States. This rule would have required, in effect, excess margin funds for foreign transactions to be retained in the United States.

In response to the concerns of many commenters on the Commission's proposed foreign futures and options rules that such a separate segregation requirement would create numerous accounting and transmission problems affiliated with the requirement that all such excess funds be accounted for and maintained in the United States, the Commission adopted a more flexible approach to ensuring protection of customer funds by requiring the creation of one or more accounts in which firms must maintain the "secured amount." In essence, the foreign futures and foreign options secured amount is an amount equal to the money, securities and property held by, or held for or on behalf of, an FCM from, for, or on behalf of foreign futures or foreign options customers required to margin, guarantee or secure *open* foreign futures contracts or representing premiums paid or received, plus other funds required to guarantee or secure open options transactions, plus any unrealized gain or minus any unrealized loss on such transactions. This is also the amount to which the four percent minimum capital requirement is applied, and the amount also is used in calculating the early warning level for firm capital.

Pursuant to paragraph (a) of Rule 30.7, as adopted, the Commission requires an FCM to maintain in a *separate* account or accounts at least that amount of money, securities and property defined in new Rule 1.3(rr) which is equal to original client margins set by the FCM plus accruals and less losses. (However, the secured amount cannot be a negative number.) This amount must be deposited in an account accessible only on behalf of customers. This rule specifies only the minimum amount required to be maintained in such an account(s), and nothing prohibits a firm from maintaining additional money, securities and property received from the appropriate customers in such separate account or accounts, provided that these amounts are not subject to a competing security interest or claim for noncustomers.

The Commission's foreign futures and options rules also permit FCMs to deposit money, securities and property belonging to any customer in respect of nonregulated transactions such as spot currency transactions in the same account as the secured amount, subject only to certain recordkeeping and reporting requirements. These requirements include, but are not limited to, the provisions of Rule 1.10(d), which, in essence, requires FCMs to include such nonregulated funds in addition to the foreign futures and options "secured

amount" in completing their financial reports; the requirements of new paragraph (e) of Rule 30.7, which parallels Commission Rule 1.27(a), 17 CFR 1.27(a) (1987), and requires FCMs to account strictly for the investment of funds of foreign futures or foreign options customers; and new paragraph (f), which parallels Commission Rule 1.32, 17 CFR 1.32 (1987), which requires a daily calculation of all funds on deposit, and the total amount of money, securities and property required to be on deposit, in such separate account(s), and, finally, the amount of the FCM's residual interest in such funds.

The Commission has also adopted certain amendments to Rule 1.16 (17 CFR 1.16 (1987)) regarding the duties of an FCM's independent public accountant with respect to the foreign futures and foreign options secured amount. The purpose of these amendments is to conform the accountant's duties with respect to the secured amount to his duties with respect to domestic customer funds. The Commission has therefore amended: (1) Rule 1.16(d)(1) to require as specific audit objectives an examination of the FCM's procedures for safeguarding the secured amount so that the accountant can be reasonably assured that any material inadequacies in such procedures will be discovered, and a review of the practices and procedures followed by the FCM in making its daily secured amount computation; and (2) Rule 1.16(d)(2)(iv) to include in the definition of a material inadequacy any conditions which contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to result in violations of the secured amount requirements to the extent that the FCM could be inhibited from promptly completing transactions or discharging responsibilities to customers or other creditors, could suffer material financial loss, or could have material misstatements in its financial reports.[1] The Commission further amended Rule 1.16 so that if an extension of time is sought for filing the certified year-end financial report, the request for such an extension of time must include a secured amount computation as of the latest date available, and the letter from the accountant required to accompany such a request must include a response, based on the work to date, as to whether the accountant believes that the firm was or is not meeting the secured amount requirements.

The Commission also notes certain minor changes to the new Form 1-FR-FCM and Form 1-FR-IB from the drafts which were published in the **Federal Register** as exhibits to the release containing the proposed rule amendments. In the draft Form 1-FR-FCM which appeared in that release, the segregation statement with respect to domestic exchange-traded transactions inadvertently omitted Item 12 from the corresponding statement in the old Form 1-FR for "segregated funds on hand." This has been corrected and a similar entry appears on the secured amount statement of Form 1-FR-FCM. The Commission further wishes to note that the standard form guarantee agreement to be entered into by an IB and an FCM carrying accounts of the IB's customers, which is Part B of Form 1-FR-IB, has been amended to include specific reference to the accounts of foreign futures and options customers introduced by the IB to the FCM. Since that agreement, as it appeared in the old Form 1-FR, made reference to future amendments to the Commodity Exchange Act and rules which have been, or may in the future be, promulgated thereunder, the Commission deems any existing guarantee agreement to cover accounts of foreign futures and options customers, and IBs and FCMs which are parties thereto need not enter into a new guarantee agreement.

### III. Changes to Financial Reports Which Are Not Related to Foreign Futures and Options Transactions

The Commission had proposed to add a statement to the new Form 1-FR-FCM and 1-FR-IB which was not included in the old Form 1-FR, the Statement of Financial and Operational Data. *See* 52 FR 44413 at 44414. This aspect of the proposal generated the most negative comment. Most of the commenters objected to the inclusion of a Statement of Financial and Operational Data, claiming that it would be unduly burdensome to prepare such a statement and that the information to be contained therein would not enhance a meaningful review of a firm's financial and operational condition. The Commission has carefully reviewed these comments and, based upon that review and its own reconsideration of this issue, has determined not to adopt a Statement of Financial and Operational Data at this time.

Since the new Form 1-FR-FCM and Form 1-FR-IB will have the Statement of Changes in Ownership Equity, which was previously required to be filed with interim financial reports and the year-end certified report, and the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors, which was previously only required to be filed with a certified year-end report, appearing on the same page, the Commission is requiring that the subordinated liabilities statement also be included with interim financial reports. *See* § 1.10(d)(1)(iii).

Certain other minor line item changes also have been made on the new Form 1-FR-FCM and Form 1-FR-IB as compared to the old Form 1-FR. Two contract markets objected to the renumbering of certain line items and claimed that this will require major computer reprogramming of their financial monitoring system. The Commission believes that the new format of Form 1-FR-FCM and Form 1-FR-IB makes the presentation of data clearer and more understandable, and notes that some firms have urged the Commission in the past to make such a change in format. The Commission has, therefore, determined to adopt new financial forms essentially as proposed, except for the Statement of Financial and Operational Data discussed above. The Commission's Division of Trading and Markets, however, will entertain requests for a "no-action" position for a limited period of time for any party which can demonstrate that it needs to use the old Form 1-FR for such limited time while it completes any necessary computer reprogramming. Any such firm which would be granted limited "no-action" relief, however, would be required to file the new statement related to foreign futures and options trading, if applicable, together with the old Form 1-FR.

The old Form 1-FR contained instructions relating to the preparation of the form. In developing the new Form 1-FR-FCM and Form 1-FR-IB, the instructions have been separated from the forms, and the Commission's staff is instead preparing a comprehensive set of report preparation instructions to be published as a separate booklet. The booklet will contain more specific instructions with respect to the reporting of particular line items appearing in the Form 1-FR-FCM and Form 1-FR-IB than is the case with the instructions to the old Form 1-FR, and it will be updated periodically as registrants bring reporting questions to the Commission's

[1] Each certified financial report must be accompanied by the accountant's report on material inadequacies. Rule 1.16(c)(5). An accountant which discovers a material inadequacy during the course of an audit or interim work must notify the firm of such discovery, and the firm must, in turn, make the appropriate notification required under the financial early warning system. The accountant may have further responsibilities if the firm fails to make the appropriate early warning notifications. Rules 1.16(e)(2) and 1.12(d).

attention. The Commission intends to have the instruction booklet available in May. If any firm has questions as to how to fill out the new forms before the instruction booklet is available, the firm should contact its designated self-regulatory organization or the appropriate Commission regional office.

Section 1.10(d)(2)(ii) previously required each Form 1–FR which was required to be certified by an independent public accountant to include, among other statements, a statement of changes in financial position. The proposed amendment to § 1.10(d)(2)(ii) left intact the reference to the statement of changes in financial position. Shortly before the November 19, 1987, publication of the proposed rule amendments by the Commission, the Financial Accounting Standards Board ("FASB") issued Statement No. 95, *Statement of Cash Flows*, which superseded Accounting Principles Board Opinion No. 19, *Reporting Changes in Financial Position*. Statement No. 95 requires companies to file a statement of cash flows as part of a full set of financial statements in place of the statement of changes in financial position.

The Commission has, therefore, substituted in § 1.10(d)(2)(ii) the phrase "statement of cash flows" for "statement of changes in financial position." The statement of changes in financial position is also referred to in Commission Rules 145.5(d)(1)(i) (C) and (D) and 147.3(b)(4)(i)(A) (*3*) and (*4*), relating to the Commission's rules under the FOIA and the GINSA, respectively, which are discussed more fully below. Wherever a "statement of changes in financial position" was mentioned in such rules, the Commission has replaced it with "statement of cash flows."

FASB Statement No. 95 makes the change from "statement of changes in financial position" to "statement of cash flows" effective for annual financial statements for periods ending after July 15, 1988. However, the Commission's rules are effective as of March 3, 1988. With respect to financial statements for fiscal years ending between now and July 15, 1988, the Commission will accept statements that include either a statement of cash flows or a statement of changes in financial position.

## IV. Filing Options

The Commission has adopted a new § 1.10(k), which will permit an independent IB or applicant for registration as an independent IB to use the new Form 1–FR–IB in lieu of the new Form 1–FR–FCM. The Commission has developed the new Form 1–FR–IB principally at the request of the NFA, which is the only designated self-regulatory organization ("DSRO") with member IBs and thus the only DSRO responsible for monitoring compliance with minimum financial requirements of its member IBs. *See* § 1.52(a). The new Form 1–FR–IB is considerably shorter than the new Form 1–FR–FCM and is tailored specifically to the financial requirements of independent IBs. For example, since IBs cannot handle any funds of customers, there are no segregation or secured amount statements included in Form 1–FR–IB.

The Commission also notes that the Securities and Exchange Commission ("SEC") is in the process of amending its basic financial reporting form, the Financial and Operational Combined Uniform Single ("FOCUS") Report under the Securities Exchange Act of 1934. The Commission's staff has been in contact with the SEC's staff in its continuing effort to harmonize the basic financial reporting forms of the two agencies. Previous efforts in this area have made it possible for an FCM or IB which is also a securities broker or dealer to take advantage of a filing option whereby such a dually-registered firm can file a FOCUS Report, Part II or Part IIA, in lieu of Form 1–FR. *See* Commission Rule 1.10(h) [17 CFR 1.10(h) (1987)]. The Commission notes, however, that Rule 1.10(h) contains a proviso which permits the use of such a filing option so long as all information which is required to be furnished on and submitted with a Form 1–FR is provided with the FOCUS Report. When the Commission originally adopted Rule 1.10(h), it stated that the proviso was included "[t]o take into account the possibility that the Commission might in the future require additional information in Form 1–FR and the SEC did not amend its financial reporting system accordingly." 44 FR 65970, 65971 (November 16, 1979). The Commission therefore wishes to make clear that, if the SEC does not complete the revision of its financial reporting forms before a firm must next file a financial report under the Commission's rules, FCMs wishing to make use of the filing option available in Rule 1.10(h) must file the new statement of secured amounts together with a copy of their FOCUS Report.

## V. Amendments to the Commission's FOIA and GINSA Rules

The FOIA basically requires that, upon request, the Commission, like most federal agencies, must make its records available to the public unless the records fall within an exemption set forth in the FOIA. The fourth exemption set forth in the FOIA provides that records which constitute "trade secrets and commercial or financial information obtained from a person and privileged or confidential" are exempt from mandatory public disclosure. 5 U.S.C. 552(b)(4) (1982). Commission Rule 145.5(d) promulgated under the FOIA, 17 CFR 145.5(d) (1987), repeats the language of the FOIA's fourth exemption quoted in the preceding sentence, and further specifies particular records which the Commission generally treats as nonpublic. Commission Rule 145.5(d)(1)(i) previously contained six subparagraphs, denoted (A) through (F), describing the portions of various financial reporting forms filed by those registrants and applicants for registration subject to minimum financial requirements which the Commission generally treats as nonpublic, provided such portions of the forms are separately bound from the generally public portions of the forms.

The Commission has amended § 145.5(d)(1)(i) to take account of the new Form 1–FR–FCM and new Form 1–FR–IB. The Commission has redesignated former paragraphs (d)(1)(i)(C) through (d)(1)(i)(F) of Rule 145.5, which relate to financial reporting forms other than Form 1–FR, as paragraphs (d)(1)(i)(E) through (d)(1)(i)(H). The Commission also adopted new paragraphs (d)(1)(i)(C) and (d)(1)(i)(D) of Rule 145.5 to set forth which portions of the new Form 1–FR–FCM and new Form 1–FR–IB, respectively, will generally be treated as nonpublic, provided the separate binding procedure of Commission Rule 1.10(g) is followed by the submitter of the form.[2] This achieves the result of a consecutive display of the provisions of Rule 145.5(d)(1)(i) which relate to Form 1–FR in its various manifestations, in subparagraphs (A) through (D) thereof, with the provisions of the rule relating to other financial reporting forms set forth in the succeeding subparagraphs.

The Commission will treat as generally nonpublic, provided that the separate binding procedure in Rule 1.10(g) is followed, those portions of the new Form 1–FR–FCM and new Form 1–FR–IB which correspond to the portions of the old Form 1–FR accorded such

[2] It is the Commission's view that the separate binding procedure of Rule 1.10(g) is a waivable option, and when an FCM, independent IB, or an applicant for registration in either category, fails to follow the procedure, the entity consents to the public release of information that might otherwise be protected by FOIA Exemption 4. However, failure to follow the separate binding procedure does not constitute consent to the release of information protected by FOIA Exemption 3 (*i.e.*, information subject to the general protection from public disclosure under section 8(a) of the Act, 7 U.S.C. 12(a) (1982)).

treatment. These statements include: The Statement of Income (Loss), the Statement of Cash Flows, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement, and the accountant's report on material inadequacies filed under Commission Rule 1.16(c)(5).

The Commission will therefore generally make available under the FOIA, consistent with its treatment of the same portions of the old Form 1-FR, the following portions of the new Form 1-FR-FCM: The Statement of Financial Condition; the Statement of the Computation of the Minimum Capital Requirements; the Statement of Segregation Requirements and Funds in Segregation for Customers Trading on U.S. Commodity Exchanges; and the Statement of Segregation Requirements and Funds in Segregation for Customers' Dealer Options Accounts. In addition, the new Statement of Secured Amounts and Funds Held in Separate Accounts for Foreign Futures and Foreign Options Customers in Accordance with Commission Regulation 30.7 will also generally be made available under the FOIA. Although the Commission does not require segregation of funds on behalf of foreign futures and options customers, the concept of a secured amount held by an FCM on behalf of a foreign futures or foreign options customer is somewhat akin to the segregated funds held by an FCM on behalf of a customer trading on or subject to the rules of a domestic contract market. Accordingly, the Commission believes the segregated funds and secured amount financial statements should be treated consistently for FOIA purposes.

With respect to the new Form 1-FR-IB, only the Statement of Financial Condition and the Statement of the Computation of the Minimum Capital Requirements will generally be made available under the FOIA. Since an IB cannot handle customer funds or the funds of foreign futures and options customers, an IB is not subject to segregation requirements or the requirements relating to the foreign futures and options customers secured amount and, thus, the new Form 1-FR-IB does not contain any statements related thereto.

The GINSA basically requires that Commission meetings be open to public observation and that certain information pertaining to such meetings be disclosed to the public. However, these requirements do not apply in cases where the Commission determines that a meeting, or a portion thereof, is likely to disclose certain types of information. The exemptions in the GINSA are similar to those set forth in the FOIA, including the exemption relating to "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Thus, the Commission's rules promulgated under the GINSA closely track those promulgated under the FOIA. For example, Commission Rule 147.3(b)(4)(i)(A) promulgated under the GINSA corresponds to Commission Rule 145.5(d)(1)(i) promulgated under the FOIA with respect to the treatment of various financial reporting forms filed with the Commission. Accordingly, the Commission has amended Rule 147.3(b)(4)(i)(A) in a manner identical to its amendment of Rule 145.5(d)(1)(i) for the reasons set forth above in the discussion of the latter rule.

## VI. Related Matters

### *A. Effective Date*

The Commission, in accordance with 5 U.S.C. 553(d)(3) (1982), finds good cause for making the rule amendments and new financial reporting forms effective less than 30 days following publication of this release in the **Federal Register**. The rule amendments and new forms discussed herein have been developed largely because of the Commission's new foreign futures and options rules, which became effective on February 1, 1988. Certain firms may be required to file a new financial report prior to the expiration of the next 30 days. Compliance with the new foreign futures and options rules will be made easier if the new financial reporting forms are available as soon as possible. The new forms have been prepared and are available from Commission regional offices in New York, Chicago and Kansas City. The Commission also believes that the amendments to Parts 145 and 147 should become effective concurrently with the effective date of the rule amendments pertaining to the new Form 1-FR-FCM and Form 1-FR-IB so that nonpublic treatment may be accorded to certain information required to be contained therein.

### *B. Paperwork Reduction Act*

The Paperwork Reduction Act of 1980 ("PRA"), 44 U.S.C. 3501 *et seq.* (1982), imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission previously submitted these rule amendments and new forms, and their associated information collection requirements, in proposed form, to the Office of Management and Budget ("OMB"). The OMB approved the collection of information associated with these rule amendments and new forms on January 7, 1988 and assigned OMB control number 3038-0024 to the rules, as amended, and the new forms.

Copies of the OMB approved information collection package associated with these rule amendments and new forms may be obtained from Bob Neal, Office of Management and Budget, Room 3220, NEOB, Washington, DC 20503, (202) 395-7340.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments adopted herein would affect FCMs and independent IBs. The Commission has previously determined that, with respect to FCMs, based upon the fiduciary nature of FCM/customer relationships, as well as the requirements that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of a small entity.[3]

With respect to introducing brokers, the Commission stated that it is appropriate to evaluate within the context of a particular rule proposal whether some or all introducing brokers should be considered to be small entities and, if so, to analyze the economic impact on such entities at that time.[4] In this regard, the Commission notes that the rule amendments being adopted herein with respect to independent IBs would allow such entities the option of using a new financial reporting form, Form 1-FR-IB, which is specifically tailored for their use and is considerably shorter than both the old Form 1-FR, which they were previously required to use, and the new Form 1-FR-FCM. Therefore, the financial reporting and recordkeeping burdens on independent IBs should be no greater under the rule amendments adopted herein than they have been previously. Therefore, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Acting Chairman certifies that these rule amendments will not have a significant economic impact on a substantial number of small entities.

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[3] *See* 47 FR 18618, 18619 (April 30, 1982).

[4] 48 FR 35248, 35275-78 (August 3, 1983).

**List of Subjects**

*17 CFR Part 1*

Financial requirements, Reporting and recordkeeping requirements, Foreign futures, Foreign options, Segregated funds, Introducing brokers.

*17 CFR Part 145*

Freedom of information, Commission records.

*17 CFR Part 147*

Sunshine Act, Commission records.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(1), 2(a)(11), 4, 4b, 4c, 4d, 4f, 4g, 5a, 8, 8a, 15, and 17 thereof, 7 U.S.C. 2, 4, 4a(j), 6, 6b, 6c, 6d, 6f, 6g, 7a, 12, 12a, 19, and 21 (1982), *as amended by* Pub. L. 99-641, 100 Stat. 3556, and pursuant to the authority contained in 5 U.S.C. 552 and 552b (1982), the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

## PART I—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for Part 1 continues to read as follows:

**Authority:** Sections 2(a)(1), 4, 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 5, 5a, 6(a), 6(b), 6b, 6c, 8, 8a, 8c, 12, 15, 17, and 20 of the Commodity Exchange Act, 7 U.S.C. 2, 2a, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 19, 21, and 24.

2. Section 1.10 is amended by adding a new paragraph (a)(1), by redesignating paragraphs (d)(1)(iii) through (d)(1)(vi) as paragraphs (d)(1)(iv) through (d)(1)(vii), by adding a new paragraph (d)(1)(iii), by revising paragraphs (d)(1)(v), (d)(2)(ii) and (d)(2)(iv), by revising paragraphs (g)(1) and (g)(2), and by adding a new paragraph (k) to read as follows:

**§ 1.10 Financial reports of futures commission merchants and introducing brokers.**

(a) *Application for registration.* (1) Except as otherwise provided, a futures commission merchant or an applicant for registration as a futures commission merchant, in order to satisfy any requirement in this part that it file a Form 1-FR, must file a Form 1-FR-FCM, and any reference in this part to Form 1-FR with respect to a futures commission merchant or applicant therefor shall be deemed to be a reference to Form 1-FR-FCM. Except as otherwise provided, an introducing broker or an applicant for registration as an introducing broker, in order to satisfy any requirement in this part that it file a Form 1-FR, must file a Form 1-FR-IB, and any reference in this part to Form 1-FR with respect to an introducing broker or applicant therefor shall be deemed to be a reference to Form 1-FR-IB.

* * * * *

(d) * * *

(1) * * *

(iii) A statement of changes in liabilities subordinated to claims of general creditors for the period between the date of the most recent statement of financial condition filed with the Commission and the date for which the report is made;

* * * * *

(v) For a futures commission merchant only, the statements of segregation requirements and funds in segregation for customers trading on U.S. commodity exchanges and for customers' dealer options accounts, and the statement of secured amounts and funds held in separate accounts for foreign futures and foreign options customers in accordance with § 30.7 of this chapter as of the date for which the report is made; and

* * * * *

(2) * * *

(ii) Statements of income (loss), cash flows, changes in ownership equity, and changes in liabilities subordinated to claims of general creditors, for the period between the date of the most recent certified statement of financial condition filed with the Commission and the date for which the report is made: *Provided,* That for an applicant filing puruant to paragraph (a)(2) of this section the period must be the year ending as of the date of the statement of financial condition;

* * * * *

(iv) For a futures commission merchant only, the statements of segregation requirements and funds in segregation for customers trading on U.S. commodity exchanges and for customers' dealer options accounts, and the statement of secured amounts and funds held in separate accounts for foreign futures and foreign options customers in accordance with § 30.7 of this chapter as of the date for which the report is made; and

* * * * *

(g) *Nonpublic treatment of reports.* (1) All of the Forms 1-FR filed pursuant to this section will be public: *Provided, however,* That if the statement of financial condition, the statement of the computation of the minimum capital requirements, the statements (to be filed by a futures commission merchant only) of segregation requirements and funds in segregation for customers trading on U.S. commodity exchanges and for customers' dealer options accounts, and the statement (to be filed by a futures commission merchant only) of secured amounts and funds held in separate accounts for foreign futures and foreign options customers in accordance with § 30.7 of this chapter are bound separately from the other financial statements (including the statement of income (loss)), footnote disclosures and schedules of Form 1-FR, trade secrets and certain other commercial or financial information on such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act and the Government in the Sunshine Act and Parts 145 ard 147 of this chapter.

(2) All of the copies of the Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA, filed pursuant to paragraph (h) of this section will be public: *Provided, however,* That if the statement of financial condition, the statement of the computation of the minimum capital requirements, the statements (to be filed by a futures commission merchant only) of segregation requirements and funds in segregation for customers trading on U.S. commodity exchanges and for customers' dealer options accounts, and the statement (to be filed by a futures commission merchant only) of secured amounts and funds held in separate accounts for foreign futures and foreign options customers in accordance with § 30.7 of this chapter are bound separately from the other financial statements (including the statement of income (loss)), footnote disclosures and schedules of the Financial and Operational Combined Uniform Single Report under the Securities and Exchange Act of 1934, Part II or Part IIA, trade secrets and certain other commercial or financial information on such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act and the Government in the Sunshine Act and Parts 145 and 147 of this chapter.

* * * * *

(k) *Filing option available to an introducing broker.* (1) Any introducing broker or applicant for registration as an introducing broker which is not operating or intending to operate pursuant to a guarantee agreement may comply with the requirements of this section by filing (in accordance with paragraphs (a), (b) and (c) of this section) a Form 1-FR-IB in lieu of a Form 1-FR-FCM.

(2) If an introducing broker or applicant therefor avails itself of the filing option available under paragraph (k)(1) of this section, the report required to be filed in accordance with § 1.16(c)(5) of this part must be filed as of the date of the Form 1–FR–IB being filed, and such an introducing broker or applicant therefor must maintain its financial records and make its monthly formal computation of its adjusted net capital, as required by § 1.18 of this part, in a manner consistent with Form 1–FR–IB.

3. Section 1.12 is amended by revising paragraph (a)(2) to read as follows:

**§ 1.12 Maintenance of mimimum financial requirements by futures commission merchants and introducing brokers.**

(a) * * *

(2) If the person is a futures commission merchant or applicant therefor, within 24 hours after giving such notice file a statement of financial condition, a statement of the computation of the minimum capital requirements pursuant to § 1.17 (computed in accordance with the applicable capital rule), the statements of segregation requirements and funds in segregation for customers trading on U.S. commodity exchanges and for customers' dealer options accounts, and the statement of secured amounts and funds held in separate accounts for foreign futures and foreign options customers in accordance with § 30.7 of this chapter, all as of the date such applicant's or registrant's adjusted net capital is less than the minimum required; or

* * * * *

4. Section 1.16 is amended by revising paragraphs (d)(1), (d)(2)(iv), (f)(1)(iv), and (f)(1)(vii)(C) to read as follows:

**§ 1.16 Qualifications and reports of accountants.**

* * * * *

(d) *Audit objectives.* (1) The audit must be made in accordance with generally accepted auditing standards and must include a review and appropriate tests of the accounting system, the internal accounting control, and the procedures for safeguarding customer and firm assets in accordance with the provisions of the Act and the regulations thereunder, since the prior examination date. The audit must include all procedures necessary under the circumstances to enable the independent licensed or certified public accountant to express an opinion on the financial statements and schedules. The scope of the audit and review of the accounting system, the internal controls, and procedures for safeguarding customer and firm assets must be sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination in (i) the accounting system, (ii) the internal accounting controls, and (iii) the procedures for safeguarding customer and firm assets (including, in the case of a futures commission merchant, the segregation requirements of section 4d(2) of the Act and these regulations and the secured amount requirements of the Act and these regulations) will be discovered. Additionally, as specified objectives the audit must include reviews of the practices and procedures followed by the registrant in making (A) periodic computations of the minimum financial requirements pursuant to § 1.17 and (B) in the case of a futures commission merchant, daily computations of the segregation requirements of section 4d(2) of the Act and these regulations and the secured amount requirements of the Act and these regulations.

(2) * * *

(iv) Result in violations of the Commission's segregation or secured amount (in the case of a futures commission merchant), recordkeeping or financial reporting requirements to the extent that could reasonably be expected to result in the conditions described in paragraph (d)(2) (i), (ii), or (iii) of this section.

* * * * *

(f) * * *

(1) * * *

(iv) In the case of a futures commission merchant, be accompanied by the latest available computation of required segregation and by a computation of the amount of money, securities, and property segregated on behalf of customers, and by a computation of secured amounts and funds held in separate accounts for foreign futures and foreign options customers in accordance with § 30.7 of this chapter, as of the date of the latest available computation;

* * * * *

(vii) * * *

(C) Do you have any indication from the part of your audit completed to date that would lead you to believe that the firm was or is not meeting the minimum capital requirements specified in § 1.17 or (in the case of a futures commission merchant) either the segregation requirements of section 4d(2) of the Act and these regulations or the secured amount requirements of the Act and these regulations, or has any significant financial or recordkeeping problems?

* * * * *

5. Section 1.52 is amended by revising paragraph (a) to read as follows:

**§ 1.52 Self-regulatory organization adoption and surveillance of minimum financial requirements.**

(a) Each self-regulatory organization must adopt, and submit for Commission approval, rules prescribing minimum financial and related reporting requirements for all its members who are registered futures commission merchants. Each self-regulatory organization other than a contract market must adopt, and submit for Commission approval, rules prescribing minimum financial and related reporting requirements for all its members who are registered introducing brokers. Each contract market which elects to have a category of membership for introducing brokers must adopt, and submit for Commission approval, rules prescribing minimum financial and related reporting requirements for all its members who are registered introducing brokers. Each self-regulatory organization shall submit for Commission approval any modification or other amendments to such rules. Such requirements must be the same as, or more stringent than, those contained in §§ 1.10 and 1.17 of this part and the definition of adjusted net capital must be the same as that prescribed in § 1.17(c) of this part: *Provided, however,* A designated self-regulatory organization may determine the number of Form 1–FRs it receives from its member registrants so long as it requires at least semiannual Form 1–FRs, one of which must be certified in accordance with § 1.16 of this part for each such registrant, except that such a requirement shall not apply to an introducing broker which is operating pursuant to a guarantee agreement and which is not also a securities broker or dealer: *And, provided further,* A designated self-regulatory organization may permit its member registrants which are registered with the Securities and Exchange Commission as securities brokers or dealers to file (in accordance with § 1.10(h) of this part) a copy of their Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA, in lieu of Form 1–FR: *And, provided further,* A designated self-regulatory organization may permit its member introducing brokers to file a Form 1–FR–IB in lieu of a Form 1–FR–FCM.

* * * * *

## PART 145—COMMISSION RECORDS AND INFORMATION

6. The authority citation for Part 145 continues to read as follows:

Authority: Pub. L. 89–554, 80 Stat. 383, Pub. L. 90–23, 81 Stat. 54, Pub. L. 93–502, 88 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (7 U.S.C. 4a(j)); Pub. L. 99–570.

7. Section 145.5 is amended by redesignating paragraphs (d)(1)(i)(C) through (d)(1)(i)(F) as paragraphs (d)(1)(i)(E) through (d)(1)(i)(H), and by adding new paragraphs (d)(1)(i)(C) and (d)(1)(i)(D) to read as follows:

**§ 145.5 Disclosure of nonpublic records.**

* * * * *

(d) * * *

(1) * * *

(i) * * *

(C) The following portions, and footnote disclosures thereof, of the Form 1–FR–FCM required to be filed pursuant to § 1.10 of this chapter (effective on and after March 1988), provided the procedure set forth in § 1.10(g) of this chapter is followed: The Statement of Income (Loss), the Statement of Cash Flows, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement, and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter;

(D) The following portions, and footnote disclosures thereof, of the Form 1–FR–IB filed pursuant to § 1.10(k) of this chapter, provided the procedure set forth in § 1.10(g) of this chapter is followed: the Statement of Income (Loss), the Statement of Cash Flows, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement, and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter;

* * * * *

## PART 147—OPEN COMMISSION MEETINGS

8. The authority citation for Part 147 continues to read as follows:

Authority: Sec. 3(a), Pub. L. 94–409, 90 Stat. 1241 (5 U.S.C. 552b); Sec. 101(a)(11), Pub. L. 93–463, 88 Stat. 1391 (7 U.S.C. 4a(j)).

9. Section 147.3 is amended by redesignating paragraphs (b)(4)(i)(A)(*3*) through (b)(4)(i)(A)(*6*) as paragraphs (b)(4)(i)(A)(*5*) through (b)(4)(i)(A)(*8*), and by adding new paragraphs (b)(4)(i)(A)(*3*) and (b)(4)(i)(A)(*4*) to read as follows:

**§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.**

* * * * *

(b) * * *

(4) * * *

(i) * * *

(A * * *

(*3*) The following portions, and footnote disclosures thereof, of the Form 1–FR–FCM required to be filed pursuant to § 1.10 of this chapter (effective on and after March 1988), provided the procedure set forth in § 1.10(g) of this chapter is followed: The Statement of Income (Loss), the Statement of Cash Flows, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement, and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter;

(*4*) The following portions, and footnote disclosures thereof, of the Form 1–FR–IB filed pursuant to § 1.10(k) of this chapter, provided the procedure set forth in § 1.10(g) of this chapter is followed: The Statement of Income (Loss), the Statement of Cash Flows, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement, and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter;

* * * * *

Issued in Washington, DC, on February 9, 1988, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 88–3133 Filed 2–16–88; 8:45 am]

BILLING CODE 6351–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 16

**[Docket No. 86N–0358]**

## Regulatory Hearing Before the Food and Drug Administration

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending its regulations governing regulatory hearings before the agency to provide that the Commissioner of Food and Drugs may deny such a hearing, in whole or in part, upon a determination that no genuine and substantial issue of fact has been raised by the submission of the person requesting the hearing. The amendment also authorizes the presiding officer for such a hearing to issue a summary decision, subject to appeal to the Commissioner or the Commissioner's delegate, on any issue in the hearing with respect to which the presiding officer determines, based on the material submitted by the parties, that there is no genuine and substantial issue of fact in dispute.

**DATE:** Effective March 18, 1988.

**FOR FURTHER INFORMATION CONTACT:** Tenny P. Neprud, Jr., Division of Regulations Policy (HFC–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. 301–443–3480.

**SUPPLEMENTARY INFORMATION:**

### Background

In the **Federal Register** of December 1, 1986 (51 FR 43217) (corrected on December 12, 1986 (51 FR 44863)), FDA issued a proposed rule to amend Part 16 of FDA's regulations governing informal regulatory hearings before the agency (21 CFR Part 16) to provide for administrative summary judgment by the Commissioner and for summary decision by the presiding officer for such hearings. The agency provided until January 30, 1987, for interested persons to submit written comments on the proposal.

The agency now is issuing a final rule which adds new § 16.26 to Part 16. Under § 16.26(a), if the Commissioner determines that the submission of the person requesting a hearing does not raise any genuine and substantial issue of fact, the Commissioner may deny a hearing, in whole or in part, and resolve any legal or policy issues. Should the Commissioner determine that a hearing is not justified, the Commissioner is required to give written notice to the parties explaining why the hearing was denied. Section 16.26(b) applies after a hearing has been granted by the Commissioner. This provision permits the person who has been designated presiding officer under § 16.22(c) to issue a summary decision on any issue, if he or she determines from the material submitted that there is no genuine and substantial issue as to any fact respecting that issue. The presiding officer's decision is subject to review by the Commissioner under § 16.26(c).

The authority granted the Commissioner under new § 16.26 (a) and (c) may also be exercised by another FDA decisionmaker to whom the authority to issue a final decision on the matter has been redelegated (e.g., the

Director, Center for Devices and Radiological Health, with respect to investigational device exemptions).

**Comments on the Proposed Rule**

In response to the proposal, FDA received comments from a pharmaceutical manufacturer and from a trade association representing manufacturers and distributors of generic drugs. The following is a summary of the comments and the agency's response to them.

1. One comment asserts that Part 16 hearings are not limited to factual questions. Referring to the statutory and regulatory sections listed in § 16.1(b) (1) and (2) under which regulatory hearings are available, the comment suggests that there are many situations in which regulatory hearings involve the determination of nonfactual issues. The comment argues that permitting the denial of a hearing when a genuine and substantial issue of fact has not been shown to exist would limit the availability of informal hearings to a narrower set of circumstances than those intended by the original rule. The comment concludes that § 16.26 would therefore operate to the detriment of the rights of a party requesting such a hearing.

FDA disagrees with this characterization of Part 16 hearings. The primary purpose of a regulatory hearing under Part 16 is to resolve factual questions. Section 16.1 describes the scope of Part 16 and provides in pertinent part:

> The procedures in this part apply when:
> (a) The Commissioner is considering any regulatory action, including a refusal to act, and concludes, as a matter of discretion, on the Commissioner's initiative or at the suggestion of any person, to offer an opportunity for a regulatory hearing *to obtain additional information* before making a decision or taking action. [Emphasis added.]

That the primary purpose of a Part 16 hearing is to resolve factual questions is confirmed by the preamble to the proposed rule to establish Part 16, which stated: "[Part 16] would govern all informal *fact-finding* hearings held by the Food and Drug Administration * * *" (40 FR 40682, 40712; September 3, 1975) (Emphasis added). If a genuine and substantial issue of fact has not been shown to exist, any remaining issues of law and policy surrounding an agency action or proposed action are not matters to be resolved in a fact-finding hearing. (Compare 21 CFR 12.24(b)(1).) Under such circumstances a hearing would not serve any useful purpose; the issues of law and policy will be resolved by the decisionmaker on the basis of applicable statutory provisions, regulations, and policies. Therefore, a provision allowing the agency to eliminate an unnecessary hearing does not infringe upon any party's rights, because there is no right to a regulatory hearing on a nonfactual issue.

2. One comment claims that Part 16 hearings, because of their informal nature, do not require significant resources. Consequently, the comment continues, a summary judgment provision would not reduce agency expenditures significantly. The comment concludes that the proposed amendments to Part 16 are therefore unnecessary.

FDA disagrees with this comment. In the agency's experience, regulatory hearings under Part 16 can, in fact, be extremely resource-intensive. Such hearings require the services of agency managers and staff, outside experts, and counsel. In the absence of a summary judgment provision, however, FDA must hold a hearing under Part 16 when one is requested even if no genuine and substantial issue of fact exists (see 51 FR 43218). By eliminating this inefficient use of its resources, FDA will be better able to devote the resources it now commits to such hearings to protecting the public health, in accord with its mandate under the Federal Food, Drug, and Cosmetic Act and the other statutes it administers. Beyond that, there is simply no reason grounded in law or policy for FDA to have to hold a hearing under Part 16 when a genuine and substantial issue of fact has not been shown to exist.

3. One comment argues that the proposed rule is inherently inconsistent. In support of this argument, the comment notes that the technical rules of evidence do not apply to the conduct of a regulatory hearing under Part 16, and cites the preamble to the final rule establishing Part 16, which stated that the presiding officer at an informal hearing should liberally permit the submission of relevant information (41 FR 48258, 48260; November 2, 1976). The comment argues that it is inconsistent to apply technical pleading rules to a determination whether to deny a Part 16 hearing given that technical evidentiary rules do not apply during the hearing itself.

FDA concludes that no inconsistency will result from the implementation of this final rule. To be sure, in order to justify a hearing, the information that is submitted has to show that there exists a genuine and substantial issue of fact. But, such information is not limited to evidence that is admissible under the Federal Rules of Evidence. Indeed, none of the information submitted by the person requesting the hearing is required to meet those standards of admissibility. On the other hand, if the information submitted does not justify a hearing, it would be illogical for the agency to have to hold a hearing at which the person who requested it would not have any information to present to show that there existed a genuine and substantial issue of fact.

4. One comment suggests that if FDA finds it necessary to have a summary judgment provision for regulatory hearings under Part 16, then the agency should allow a hearing if there is any reasonable possibility that the person who requested the hearing might establish at the hearing that there is a genuine and substantial issue of fact justifying the hearing. The comment also suggests that if the Commissioner determines that no such issue of fact has been shown to exist, the Commissioner should serve upon the person requesting the hearing a proposed order denying the hearing and provide that person a reasonable period of time to demonstrate that there is a genuine and substantial issue of fact justifying a hearing. Another comment recommends that, in lieu of amending Part 16 as proposed, FDA adopt guidelines or an unspecified "internal mechanism" to permit summary disposition of issues.

FDA disagrees with these comments. The purpose of a hearing under Part 16 is to receive information to resolve any genuine and substantial issue of fact involving an agency action or proposed action, not to establish the existence of such an issue. The agency emphasizes that it will not use the summary judgment mechanisms except where appropriate, and that the determination whether a hearing will be denied will be made on a case-by-case basis. The summary judgment provision will be used only where the information submitted by the person requesting a hearing does not raise any genuine and substantial issue of fact. Furthermore, if a person fails to convince the Commissioner that a hearing is necessary, that person may seek administrative reconsideration of the action under 21 CFR 10.33 (see § 16.119).

FDA rejects the suggestion that it adopt guidelines or some other mechanism short of the final rule established by this document to provide for administrative summary judgment. The standard set out in new § 16.26 for denying a hearing conforms to well-settled law and is appropriate for determining, based on the information submitted by a person requesting a hearing, whether to deny a hearing. If the agency's experience in administering

§ 16.26 suggests that guidelines for implementing that section would be useful, FDA will consider adopting such guidelines.

### Revision of the Proposed Amendment

On its own initiative, FDA has revised the proposed amendment to provide additional clarity. Proposed § 16.26(b) would have granted the presiding officer authority to issue a partial or complete summary decision "after a hearing commences." The agency believes that some confusion may arise as to when a hearing "commences" for the purpose of § 16.26. To avoid any such confusion, FDA has revised proposed § 16.26(b) to specify that a hearing commences when FDA receives a request for hearing under § 16.22(b). In addition, the final sentence of proposed § 16.26(b) has been separated into paragraph (c) in the final rule, and refined for added clarity.

### Economic Impact

In accordance with Executive Order 12291, FDA previously considered the potential economic effects of this final rule. As stated in the proposal, the agency carefully analyzed the economic effects of the rule and determined that it is not a major rule as defined by the Order. Further, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

### Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

### List of Subjects in 21 CFR Part 16

Administrative practice and procedure.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 16 is amended as follows:

## PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. The authority citation for 21 CFR Part 16 is revised to read as follows:

**Authority:** Secs. 1 et seq., 2 et seq.; 15 U.S.C. 401 et seq., 1451 et seq.; secs. 1–10, 1–9, 201 et seq., 24(b), 409(b), 100 et seq., 2 et seq.; 21 U.S.C. 41–50, 141–149, 321 et seq., 467f(b), 679(b), 821 et seq., 1031 et seq.; secs. 1 et seq., 4; 42 U.S.C. 201 et seq., 257a; 21 CFR 5.10

2. Part 16 is amended by adding a new § 16.26 to read as follows:

**§ 16.26 Denial of hearing and summary decision.**

(a) A request for a hearing may be denied, in whole or in part, if the Commissioner or the FDA official to whom the authority to make the final decision on the matter has been delegated under Part 5 determines that no genuine and substantial issue of fact has been raised by the material submitted. If the Commissioner or his or her delegate determines that a hearing is not justified, written notice of the determination will be given to the parties explaining the reason for denial.

(b) After a hearing commences, the presiding officer may issue a summary decision on any issue in the hearing if the presiding officer determines from the material submitted in connection with the hearing, or from matters officially noticed, that there is no genuine and substantial issue of fact respecting that issue. For the purpose of this paragraph, a hearing commences upon the receipt by FDA of a request for hearing submitted under § 16.22(b).

(c) The Commissioner or his or her delegate may review any summary decision of the presiding officer issued under paragraph (b) of this section at the request of a party or on the Commissioner's or his or her delegate's own initiative.

Dated: January 22, 1988.

**Ronald G. Chesemore,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 88-3252 Filed 2-16-88; 8:45 am]

BILLING CODE 4160-01-M

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## 21 CFR Part 524

## Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Neomycin Sulfate-Sulfacetamide Sodium-Hydrocortisone Acetate Ophthalmic Ointment

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations by removing the regulation reflecting approval of a new drug application (NADA) sponsored by Altana, Inc. The NADA provides for the use of neomycin sulfacetamide with hydrocortisone veterinary ophthalmic ointment in the eyes of dogs and cats. In a notice published elsewhere in this issue of the Federal Register, the agency is withdrawing approval of the NADA at the sponsor's request.

**EFFECTIVE DATE:** February 29, 1988.

**FOR FURTHER INFORMATION CONTACT:** Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

**SUPPLEMENTARY INFORMATION:** In a notice published elsewhere in this issue of the Federal Register, the agency is withdrawing approval of NADA 47-090 sponsored by Altana, Inc. (formerly Byk-Gulden, Inc.), 60 Baylis Rd., Melville, NY 11747. The firm's NADA provides for the use of neomycin sulfacetamide with hydrocortisone veterinary ophthalmic ointment in superficial ocular inflammations or infections limited to the conjunctival or the anterior segment of the eyes of dogs and cats. This document removes 21 CFR 524.1484h which reflects approval of the NADA.

### List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Veterinary Medicine, Part 524 is amended as follows:

## PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 524 is revised to read as follows:

**Authority:** Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

**§ 524.1484h [Removed]**

2. Section 524.1484h *Neomycin sulfate-sulfacetamide sodium-hydrocortisone acetate ophthalmic ointment* is removed.

Dated: February 10, 1988.

**Richard H. Teske,**

*Deputy Director, Center for Veterinary Medicine.*

[FR Doc. 88-3328 Filed 2-16-88; 8:45 am]

BILLING CODE 4160-01-M

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## NATIONAL LABOR RELATIONS BOARD

## 29 CFR Part 100

## Employee Responsibilities and Conduct

**AGENCY:** National Labor Relations Board (NLRB).

**ACTION:** Final rule.

**SUMMARY:** This rule amends the current standards of conduct for employees of the NLRB. The change allows employees to accept food and refreshments served during gatherings such as seminars and conferences that are sponsored by non-government organizations such as businesses and professional associations. However, NLRB employees may attend such meetings only when circumstances preclude even the appearance of any impropriety or conflict of interest.

**EFFECTIVE DATE:** February 17, 1988.

**FOR FURTHER INFORMATION CONTACT:** Ernest Russell, Director of Administration, 202-254-9200.

**SUPPLEMENTARY INFORMATION:** Government-wide guidelines for employee standards of conduct are established by Executive Order 11222 and 5 CFR Part 735. These guidelines do not permit employees to accept food or refreshments from prohibited sources during widely-attended gatherings such as seminars and conferences unless the employee's agency obtains an exception to the guidelines from the Office of the General Counsel, Office of Personnel Management, and the Office of Government Ethics. The NLRB has obtained approval for an exception from these two offices so that its employees may accept food and refreshments from otherwise prohibited sources during widely-attended gatherings. NLRB employees will only attend such meetings when attendance is in the Agency's interest, the informational value of the meeting is not merely incidental to its entertainment value, the food offered is not excessive, and attendance complies with the Agency's standards of conduct. No notice of proposed rulemaking has been published because the rule relates to NLRB personnel. For this same reason, the rule is not subject to the review requirements of Executive Order 12291.

**List of Subjects in 29 CFR Part 100**

Conflict of interests.

For the reasons set out in the preamble, 29 CFR Part 100 is amended as follows:

## PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

**Authority:** E.O. 11222, 30 FR 6469, 3 CFR 1965 Supp.; 5 CFR 735.104.

2. In § 100.735-12(b), paragraphs (3) and (4) are redesignated as paragraphs (4) and (5) and a new paragraph (3) is added to read as follows:

**§ 100.735-12 Gifts, entertainment, and favors.**

* * * * *

(b)(3) When it is determined to be in the Agency's interest for an employee to attend a particular function and incidental to the event, food and refreshments are being served, the employee may attend such an event and accept the food and refreshments from otherwise prohibited sources, when the events are widely-attended gatherings. Such widely attended gatherings should be of mutual interest to the Government and industry such as receptions, seminars, conferences, and training sessions and the informational value of the event should not be merely incidental to its entertainment value. The food and refreshments offered in conjunction with these events will not be excessive. In making a determination that the event is in the interest of the Agency, the reviewing official will assure that attendance complies with the Agency's existing standards of conduct so that there will be no appearance of impropriety. This shall include a determination that an otherwise prohibited host is not currently involved in dealings with the Agency such that the timing of and other circumstances surrounding the event create such an appearance of impropriety that it outweighs the Agency's interest in the employee's attendance. Officers and employees interested in attending a function of the type described herein shall obtain the prior approval of the reviewing official who, for purposes of this provision, is the Designated Agency Ethics Official.

Dated: Washington, DC, February 11, 1988.

By direction of the Board.

National Labor Relations Board.

**John C. Truesdale,**

*Executive Secretary.*

[FR Doc. 88-3256 Filed 2-16-88; 8:45 am]

BILLING CODE 7545-01-M

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

**[CGD1-88-005]**

### Safety Zone Regulations; Port of New York

**AGENCY:** Coast Guard, DOT.

**ACTION:** Emergency rule.

**SUMMARY:** The Coast Guard is establishing a safety zone in the Port of New York. This Safety Zone is established due to the potential increased hazard to navigation during a period when tugboat assistance is limited or unavailable. "Controlled vessels" must comply with port entry and movement requirements of this Safety Zone.

**EFFECTIVE DATES:** This regulation will be effective from 12:00 a.m. local time 16 February 1988 to that point in time when the Captain of the Port, New York deems that the hazard no longer exists. A document will be published in the **Federal Register** terminating the safety zone.

**FOR FURTHER INFORMATION CONTACT:** Lt. Commander Lawrence W. Brooks, Captain of the Port, New York, (212) 668-7834.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking was not published for this regulation and it is being made effective less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards.

**Drafting Information**

The drafters of this regulation are LTJG A.J. Dininno, Project Officer for the Captain of the Port, New York and CDR R.A. Brunell, Project Attorney, First Coast Guard District Legal Office.

**Discussion of Regulation**

The circumstances requiring this regulation result from the potential increased hazard to navigation during a period when tugboat assistance is limited or unavailable.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

**Regulation**

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

## PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. Part 165 is amended by adding § 165.T105 to read as follows:

**§ 165.T105 Safety zone: The Port of New York.**

(a) *Location.* The following area has been declared a safety zone: the Port of New York which includes the navigable

waters of the United States shoreward of Ambrose Light (LLNR 705) including the entrance to Sandy Hook, Ambrose and Swash Channels, the Lower and Upper Bay, the Raritan Bay and Raritan River, the Arthur Kill, the Kill Van Kull, Newark Bay, and the Hackensack and Passaic Rivers, the waters of Long Island Sound West of Execution Rocks and including the East River, and Hudson River south of Yonkers.

(b) *Effective dates.* This regulation will be effective from 12:00 a.m. local time 16 February 1988 to that point in time when the Captain of the Port, New York deems that the hazard to navigation no longer exists.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, vessel entry or movement within this zone must be in compliance with the following regulations issued by the Captain of the Port, New York.

(2) These directions apply to all controlled vessels during a period when tug boat assistance is limited or unavailable within the Port of New York, and to all other vessels which shall keep clear of the controlled vessels. No vessel of any type shall impede the safe operation of any other vessel.

(3) U.S. Coast Guard and other operators of public vessels will coordinate their vessel movements with "New York Traffic" via channel 14 VHF-FM, or by telephone to the following number: (212) 668-6496.

(4) The Captain of the Port may sequence controlled vessel movements to assure safety. Accordingly, delays in entering, transiting, or departing the Port of New York may be expected.

(5) In an emergency any person may deviate from this rule to the extent necessary to avoid endangering persons, property or the environment. Nothing in this order should be construed as restricting reasonable movement in an emergency or of relieving the Master/Pilot of their responsibility for safe navigation, and for following the practices of a prudent seaman.

(6) *Definitions for the purpose of the Captain Of The Port Safety Zone:* (i) *The Port of New York* includes the navigable waters of the United States shoreward of Ambrose Light (LLNR 705) including the entrance to Sandy Hook, Ambrose and Swash Channels, the Lower and Upper Bay, the Raritan Bay and Raritan River, the Arthur Kill, the Kill Van Kull, Newark Bay, and the Hackensack and Passaic Rivers, the waters of Long Island Sound West of Execution Rocks and including the East River, and Hudson River south of Yonkers.

(ii) *Upper Bay* is that portion of the Port of New York north of the Verrazano Bridge and south of the East River and the Hudson River.

(iii) *Lower Bay* is that portion of the Port of New York north of a line between Sandy Hook Light NR. 15 and Rockaway Point and east of Raritan Bay.

(iv) *Vessel* means every description of water craft including nondisplacement craft and seaplanes, used or capable of being used, as a means of transportation or water.

(v) *Controlled Vessels* are all non-public self-propelled vessels, both U.S. and foreign, of 1600 gross tons and over and all non-public tugs with tows regardless of tonnage unless a vessel is specifically exempted in writing by the Captain of the Port, New York.

(7) *Directions Ordered:* (i) Controlled vessels may not move without first advising the Captain of the Port, New York of the proposed movement and receiving an acknowledgment of the notice. Wind force/direction, weather and other vessel traffic will be considered by the Captain of the Port in authorizing controlled vessel movements and vessel's movements may occasionally be delayed.

(A) Controlled vessels shall provide notices and notifications as follows:

(*1*) All controlled vessels shall provide a six-hour advance notice of vessel's time of arrival at the Port of New York to the Coast Guard Captain of the Port, New York. Except that those vessels arriving from Long Island Sound shall provide notice three hours prior to arrival at Execution Rocks, and those vessels arriving from the Hudson River shall provide notice when passing Yonkers, NY.

(*2*) In addition to the 6-hour advance notice required for vessel arrivals in the port:

(*i*) All self-propelled controlled vessels shall report their movements within the port to New York Traffic at least three hours prior to commencement of the movement. Upon receipt of these notices the Captain of the Port, New York will give permission/denial to undertake the requested vessel movement.

(*ii*) All non-public tugs with tow(s) (controlled vessels) shall report their movements within the port to New York Traffic at least one hour prior to commencement of the movement. Upon receipt of these notices the Captain of the Port, New York will give permission/denial to undertake the requested vessel movement.

(*3*) Persons giving the foregoing notices shall provide the following information:

(*i*) Name of vessel, length, draft, cargo,

(*ii*) Estimated time of arrival, expected anchorage or berth,

(*iii*) Expected sailing route, estimated time at anchorage or berth,

(*iv*) Propulsion, single/twin screw, bow thruster,

(*v*) Extent of tug assistance anticipated.

(*4*) In addition, all controlled vessels shall contact New York Traffic on channel 14 VHF-FM just prior to undocking and weighing anchor to confirm that they may still move.

(*5*) In addition to these notices all controlled vessels shall advise the Captain of the Port, New York of deficiencies to the following items which may affect the safe transit of the vessel:

(*i*) Navigation equipment required by 33 CFR 164.35.

(*ii*) Vessel conditions of fire, flooding, and unusual trim and listing.

(*iii*) Vessel controllability and maneuverability.

(*iv*) Any impairment to vessel or cargo.

(*v*) Vessel's propulsion equipment.

(*6*) Self-propelled vessels will also comply with the normal 24-hour notice required by 33 CFR Part 160 as well as the casualty reporting requirement in 33 CFR 160.215 and 164.53.

(*7*) All controlled vessels shall contact New York Traffic on channel 14 VHF-FM prior to entering Ambrose or Sandy Hook Channel, proceeding beyond Execution Rocks from Long Island Sound or proceeding beyond the Yonkers Pilot Station southbound from the Hudson River. At this time the vessel shall report that it is entering the port of New York and will confirm that it may still enter.

(*8*) All controlled vessels shall contact New York Traffic on channel 14 VHF-FM upon docking, archoring or upon departing the port of New York beyond Execution Rocks, the Yonkers Pilot Station northbound, or Ambrose and Sandy Hook Channels bound for sea.

(B) The above mandatory reporting must be acknowledged by New York Traffic on channel 14 VHF-FM.

(ii) The following Security Broadcast System is mandatory for all controlled vessels upon implementation of this Notice. These transmissions will not be acknowledged by New York Traffic.

(A) All controlled vessels are required to make a security broadcast, in the format described below, at or when approaching each of the broadcast points listed in Table 165.T105(a).

(B) At each of the Broadcast Points the following information should be transmitted on Channel 13 VHF-FM, the Bridge-to-Bridge Channel, by all participating vessels:

(1) Vessel name.
(2) If a Towing Vessel—the nature of the tow.
(3) Present location (name of reporting point).
(4) Direction of movement.
(C) This list of broadcast points is considered to be the minimum number of points to provide a working system. Additional calls may be prudent depending on weather conditions, unique vessel characteristics, when a towing vessel is changing the configuration of a tow, or when a vessel is anticipating an unusual maneuver or activity. It is expected that there will be other communications on Channel 13, both in the form of additional security broadcasts and for making arrangements for meeting or passing.
(D) Security broadcasts will be made by all controlled vessels immediately prior to departing a berth or anchorage.
(E) An additional security broadcast is suggested for a vessel approaching an anchorage area when, in the opinion of the Master or Pilot, such a broadcast would serve to alert other vessels, preparing to enter or leave the anchorage area, of the presence of the former and thereby minimize the possibility of a surprise encounter or interference with maneuvers.
(iii) No controlled vessel except for non-public tugs with tows not normally requiring a pilot shall enter, transit, or depart the Port of New York unless under the direction of a designated pilot from the New York and New Jersey Sandy Hook Pilots, the Interport Pilots, or the Hudson River Pilots.
(8) *Exceptions:* (i) With the concurrence of the Captain of the Port, special arrangements may be made to permit other properly licensed federal or state pilots to move vessels provided such pilots have knowledge of the provisions of this Notice.
(ii) Prior to each controlled vessel movement, the Master must have a copy of this Notice advising him that these are emergency directions for vessel traffic within the Port of New York during a tow boat operators strike.
(iii) This Notice will normally be delivered by the pilot or can be acquired through the vessels agent or owner or from the Captain of the Port, New York.
(iv) If visibility is so restricted as to make stopping the vessel within half of the limit of visibility impossible, that vessel shall not be moved or if underway, directed to the nearest safe anchorage/berth so as not to interfere with other vessels navigation.
(v) The Master of all controlled vessels except tugs shall be on the bridge of the vessel, shall ensure that the following precautions have been taken, and inform the pilot of all these precautions:
(A) Both anchors are either free in the hawse pipe or backed out and ready for immediate use.
(B) A ship's officer is at the anchor control station and in direct communication with the bridge of the vessel by telephone, radio, or if adequate, by both visual means and amplified voice.
(C) The vessel's propulsion plant is in proper order and manned for maneuvering conditions.
(D) The necessary personnel, in direct telephone or telegraph communication with the bridge, are stationed in the steering machinery room ready to assume control immediately, should the vessel's normal steering control be lost.
(E) A competent helmsman is stationed at the vessel's helm.
(vi) Due regard shall be given to underwater cable and pipeline crossing when utilizing vessel's anchor to assist in mooring operations.
(vii) Docking and undocking at all berths shall give due regard to other vessels moored close by. In all cases, vessels shall be berthed in such a manner as to facilitate an unassisted departure and to facilitate protection from low energy contact by maneuvering vessels through the use of fenders, barges etc.
(viii) When a vessel's anchor is set on the bottom to facilitate undocking, it shall be set so as not to obstruct other vessels.
(9) *Restrictions.* The following restrictions will apply to all vessels operating within the Port of New York upon implementation of this plan:
(i) No controlled vessel shall enter or move within the Port of New York without 2 foot minimum bottom clearance at all times.
(ii) Unless specifically authorized by the Captain of the Port, no vessel with the following conditions shall enter or move within the Port of New York:
(A) Inoperable navigation equipment required by 33 CFR 164.35;
(B) Vessel conditions of fire, flooding, and unusual trim and listing;
(C) Impaired controllability and maneuverability;
(D) Vessel's propulsion equipment is impaired;
(E) Any impairment to the vessel or cargo which may affect the safe transit of the vessel.
(iii) No vessels laden with the following cargoes in bulk quantities shall enter, depart, or move within the Port of New York except by special permission of the Captain of the Port, New York:
(A) Explosives, Class A (commercial or military);
(B) Oxidizing materials for which a special permit for water transportation is required by 49 CFR Part 176;
(C) Any cargoes "of particular hazard" as listed in 33 CFR 160.211;

(Note.—That list includes liquified flammable gasses, anhydrous ammonia, chlorine, certain acids, etc.)

(D) Radioactive materials, as defined in 49 CFR 172.389(e).
(iv) Vessel traffic within confined channels and basins will be permitted only under favorable conditions of current, wind, and visibility, considering vessel size and manueverability, obstructions and other vessels, both moored and underway. One way traffic may be ordered by the Captain of the Port from time to time as conditions require. In this regard:
(A) No controlled vessel shall transit Bergen Point entering or leaving Newark Bay unless it transits with a favorable tidal current and optimum wind conditions.
(B) No transits are permitted that involve meeting or overtaking of two controlled vessels at the following locations:
(1) Hell Gate, East River,
(2) Tuft's Point, Arthur Kill,
(3) Tremley Point, Arthur Kill,
(4) Bergen Point, Kill Van Kull,
(5) North Brothers Island, East River,
(6) Arthur Kill Railroad Bridge,
(7) Constable Hook Range, West End.
(C) No self propelled controlled vessel with a draft of 32 feet or greater may transit Hell Gate without tug assistance.
(D) No loaded barge greater than 10,000 gross tons may transit Hell Gate unless that barge has at least two tugs made up to it. In addition the barge must have a draft less than 32 feet.
(E) Controlled vessels shall not meet in the area from Hell Gate Railroad Bridge to Sunken Meadow.
(F) The Raritan River is closed to all controlled vessels with the exception of tugs and barges.
(G) Erie Basin is closed to all controlled vessels without tug assistance.
(H) Restrictions (D)–(G) above may be waived under certain circumstances upon application to the Captain of the Port.
(I) Nothing in these rules will be construed as preventing case by case exemptions by the Captain of the Port when there will be no lessening of safety.
(v) Emergency situations shall be immediately reported to the Captain of

the Port, including groundings, collisions with any objects, fires, etc.

(10) *Anchorages.* (i) The Captain of the Port, New York will maintain control of the Federal Anchorages within the Port of New York and may limit the length of anchorage stays in order to prevent anchorage congestion and to facilitate the scheduling and movement of vessels bound for berths within the port.

(ii) No vessel will anchor in Federal Anchorage 25 or Federal Anchorage 44 without first receiving permission from the COTP NY through "New York Traffic" on channel 14. These anchorages will be maintained open and will be utilized by the Captain of the Port, New York as holding anchorages for vessels he will divert there, and for vessels' emergency use to avoid meeting situations.

(11) *Appeals:* (i) Appeal procedures for this COTP Order as prescribed in 33 CFR 160.7 are as follows:

(A) Any person (individual, firm, corporation, association, governmental entity, or partnership) directly affected by the directions of this Order may request reconsideration by the Captain of the Port, New York, and may Appeal through the Captain of the Port to the First Coast Guard District Commander, and then to the Commandant of the U.S. Coast Guard, whose decision shall be final.

(B) Requests for reconsideration and appeals may be written or oral, but if oral, must be followed by no less than a written outline of the key points made. The Coast Guard official to whom the request of appeal is made will provide a written decision if requested.

(C) While any request or appeal is pending, the order or direction remains in effect.

(D) These appeal procedures do not apply to suspension or revocation proceedings against a holder of a license of merchant mariner's document. Suspension and revocation appeals are governed by the procedures in 46 CFR Subpart 5.703.

(12) *Notification:* (i) All notification required by this order will be given either to "New York Traffic" via channel 14 VHF-FM, or by telephone to the following number: (212) 668-6496.

(ii) Controlled vessels wishing to report lightering, dangerous proximity situations in the anchorage or requesting an extension of its stay in the anchorage will do so by contacting "New York Traffic" on CH. 14 VHF-FM.

TABLE 165.T105(a)—SECURITY BROADCAST SYSTEM REPORTING POINTS

| Name | Location | Direction of movement |
|---|---|---|
| Lower and Upper Bay | | |
| (1) Ambrose Tower. | Ambrose Channel. | Inbound. |
| (2) Nortons Pt. | Coney Island | N. & S. bound. |
| (3) Buoy "22" | Gowanus Flats | do. |
| (4) Light "2" | Bay Ridge Ch. 69th St. Piers. | N. & S. bound in Bayridge Ch. |
| (5) "KV" Buoy | Kill Van Kull Ch. | In any direction. |
| (6) Buoy "28" | Gowanus Flats | N.S.E.W. bound. |
| (7) Buoy "9" | Red Hook Ch. | N. & S. bound in Red Hook Ch. |
| (8) Buoy "31" | Ellis Island | N. & S. bound. |
| (9) Holland Tunnel Vent. | Pier 40 Hudson River. | do. |
| (10) G.W. Bridge. | Hudson & East Rivers. | do. |
| (11) Manhattan Bridge. | Manhattan Bridge. | do. |
| (12) Williamsburg Bridge. | Williamsburg Bridge. | do. |
| (13) 59th St. Bridge. | East River | do. |
| (14) Hell Gate | Halletts Point Entrance to Hell Gate. | do. |
| (15) Hunts Point. | Hunts Point | E. & W. bound. |
| (16) Whitestone Bridge. | | do. |
| Kill Van Kull/ Newark Bay/ Arthur Kill | | |
| (17) Plaster Works. | Exiting KVK on Staten Is. | East bound. |
| (18) Bayonne Bridge. | In KVK East of Bergen Pt. | E. &. W. bound. |
| (19) Old C & J Remains. | Entrance to Newark Bay. | N. & S. bound. |
| (20) Beacon "9". | Newark Bay | do. |
| (21) Lehigh Valley Draw. | Lehigh Valley Draw Bridge. | do. |
| (22) Arthur Kill R.R. Bridge. | Howland Hook | do. |
| (23) Tremley Point. | Arthur Kill | do. |
| (24) Tufts Point | do | do. |
| (25) Outerbridge. | Outerbridge Crossing. | do. |
| (26) Great Beds Light. | Raritan Bay | E. & W. bound. |

Dated: February 4, 1988.

**R.C. North,**

*Captain, U.S. Coast Guard, Captain of the Port, New York.*

[FR Doc. 88-3190 Filed 2-16-88; 8:45 am]

BILLING CODE 4910-14-M

## DEPARTMENT OF EDUCATION

## 34 CFR Parts 3, 17, and 322

## Official Seal, Amendment and Removal of Miscellaneous Regulations

**AGENCY:** Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the regulations for the Department's Official Seal and removes from the Code of Federal Regulations (CFR) regulations for the Release of Adverse Information to News Media and the Training Program for Teachers of Handicapped Children in Areas With a Shortage. This action is being taken to correct outdated information and to remove unnecessary regulations.

**EFFECTIVE DATE:** These regulations take effect on February 17, 1988.

**FOR FURTHER INFORMATION CONTACT:** A. Neal Shedd, 400 Maryland Avenue SW., Room 2131, FOB-6, Washington, DC 20202. Telephone: (202) 732-2887.

**SUPPLEMENTARY INFORMATION:** Part 3—Official Seal regulations advise staff and the public of allowable uses of the Department Seal and establish the procedure for persons and organizations outside the Department to request permission to reproduce the Seal. These regulations revise the authority citation and correct two position titles which are inaccurate due to Department reorganization.

Part 17—Release of Adverse Information to News Media regulations establish procedures to protect individuals in announcing information bearing on public health and safety. These regulations remove Part 17 because it is not germane to Department programs or activities.

Part 332—Training Program for Teachers of Handicapped Children in Areas With a Shortage regulations are obsolete. Statutory authorization for this program has expired and was not renewed. Since no funds are available under this program, the regulations in Part 322 are removed.

### Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department of Education to publish regulations in proposed form and to offer interested parties the opportunity to comment on proposed regulations. However, since these regulations contain only technical changes and remove inapplicable and obsolete parts, the Secretary has determined, under 5 U.S.C. 553(b)(B), that notice and public comment thereon are unnecessary. For the same reasons, a delayed effective date for these regulatory changes is found to be unnecessary in accordance with 5 U.S.C. 553(d)(3).

**Executive Order 12291**

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

**List of Subjects**

*34 CFR Part 3*

Seals and insignia.

*34 CFR Part 17*

Administrative practice and procedure, News media.

*34 CFR Part 322*

Education, Education of handicapped, Government contracts, Grant programs—education, Teachers.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: January 11, 1988.

**William J. Bennett,**

*Secretary of Education.*

The Secretary amends Part 3 and removes Parts 17 and 322 of the Code of Federal Regulations as follows:

## PART 3—OFFICIAL SEAL

1. The authority citation for Part 3 is revised to read as follows:

**Authority:** 20 U.S.C. 3472 and 3485, unless otherwise noted.

**§ 3.4 [Amended]**

2. In § 3.4, the heading is amended by removing the words "by persons or organizations outside the Department".

3. In § 3.4, paragraph (b) is amended by removing the words "Assistant Secretary for Public Affairs" and adding, in their place, the words "Deputy Under Secretary for Planning, Budget, and Evaluation".

4. In § 3.4, paragraph (e)(3) is amended by removing the words "Assistant Secretary for Management" and adding, in their place, the words "Deputy Under Secretary for Management".

## PART 17—[REMOVED]

5. Part 17, Release of Adverse Information to News Media, is removed;

## PART 322—[REMOVED]

6. Part 322, Training Program for Teachers of Handicapped Children in Areas With a Shortage, is removed.

[FR Doc. 88-3244 Filed 2-16-88; 8:45 am]

BILLING CODE 4000-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[FRL-3328-2]**

### Approval and Promulgation of Implementation Plans, Missouri; Continuous $SO_2$ Monitoring of Secondary Lead Smelters

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** In this action, EPA is approving amendments to Missouri Regulation 10 CSR 10-3.100, Restriction of Emission of Sulfur Compounds. These amendments consist of one addition and recodifications of the rule. The addition contained in 10 CSR 10-3.100(4)(B) requires the installation of continuous $SO_2$ monitors on secondary lead smelters. There is only one secondary lead smelter in the state. Even though stack tests show the plant meets the applicable $SO_2$ emission limits which are in the approved State Implementation Plan (SIP), the state is concerned about the impact of the $SO_2$ emissions on the ambient air quality standards for $SO_2$. The data from the continuous $SO_2$ monitor on the smelter will assist the state in determining whether there are intermittent excursions of the $SO_2$ emission standard or whether the existing emission requirement is not stringent enough to protect the ambient standards. This amendment does not change the $SO_2$ emission limit pertaining to the smelter.

The format of Rule 10 CSR 10-3.100 was recodified to improve its clarity. After reviewing these changes, it has been determined that all requirements which were formerly contained in the rule have been retained in the revised rule.

**DATES:** This action will become effective on April 18, 1988, unless notice is received by March 18, 1988, that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Written comments on this action should be addressed to Dewayne E. Durst at the EPA Regional Office (address listed below). Copies of the documents relevant to this action are available for public inspection during normal business hours at:

Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101

Missouri Department of Natural Resources, Air Pollution Control Program, 205 Jefferson Street, Jefferson City, Missouri 65101

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

**FOR FURTHER INFORMATION CONTACT:** Dewayne E. Durst at (913) 236-2893; FTS 757-2893.

**SUPPLEMENTARY INFORMATION:** On November 19, 1986, the Missouri Department of Natural Resources submitted, as a SIP revision, amendments to its regulation 10 CSR 10-3.100. These amendments added requirements for continuous $SO_2$ monitors on secondary lead smelters and improved the format of the remainder of that regulation. A technical support document dated December 29, 1987, contains a detailed review of the changes and revisions to Rule 10 CSR 10-3.100. A public hearing was held on the regulation on August 21, 1986, before the Missouri Air Conservation Commission. The Commission adopted the regulation on October 16, 1986, and it became effective November 28, 1986.

There is presently only one secondary lead smelter in Missouri to which the continuous $SO_2$ monitoring requirements will apply. This is the Schuylkill plant located in a rural area near Forest City in the northwestern part of Missouri. The smelter began operation in 1979 and is required to meet the Federal New Source Performance Standards for secondary lead smelters (40 CFR Subpart L), which applies only to particulate emissions from the smelter. $SO_2$ emissions must meet Missouri Regulation 10 CSR 10-3.100(3)(A)(1) which limits emissions of $SO_2$ from industrial process sources, such as Schuylkill. The emission limit applicable to Schuylkill is 500 parts per million by volume of $SO_2$. The plant was stack tested in 1985 and the actual emission rate was *well below* the allowable limit.

Even though the plant was shown to be in compliance with applicable emission regulations through stack testing, there have been complaints from land owners and farmers living in the vicinity of the facility concerning smelter emissions. No ambient $SO_2$ monitoring has been conducted in the area. However, based on the record of complaints and a field investigation, the state of Missouri decided to require the plant to install a continuous $SO_2$ emission monitor on its stack.

The information from the continuous monitor will be used to determine whether air quality problems are caused by upset or unusual conditions at the plant, or whether a more stringent $SO_2$ emission limit might be required for the facility. The monitor will also be used to determine whether the plant is in

compliance with the existing emission standard for $SO_2$.

A schedule for installation of the monitor is contained in the regulation and requires that the monitor be installed by May 1987. Information from the state of Missouri indicates the monitor was installed, but repairs were needed which required returning the instrument to the factory. The state anticipates the monitor will be reinstalled and a performance test performed in the near future. The approval will authorize EPA to enforce the monitoring requirements.

EPA has reviewed the state submission and the amendments to Missouri Regulation 10 CSR 10-3.100. Based upon this review, EPA has determined that the amendments should be approved as part of the Missouri SIP.

### Action

EPA is today approving amendments to Missouri Regulation 10 CSR 10-3.100, Restriction of Emission of Sulfur Compounds, which became effective on November 28, 1986.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial issue and anticipates no adverse comments. This action will be effective 60 days from the date of the **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn and two subsequent notices will be published. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective April 18, 1988.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 18, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

### List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Incorporation by reference, Lead particulate matter, Sulfur dioxide.

Note.—Incorporation by reference of the Missouri Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 9, 1988.

**Lee M. Thomas,**

*Administrator.*

## PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations, is amended as follows:

### Subpart AA—Missouri

1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401-7642.

2. Section 52.1320 is amended by adding a new paragraph (c)(63) to read as follows:

**§ 52.1320 Identification of plan.**

* * * * *

(c) * * *

(63) An amendment to the rule, Restriction of Emissions of Sulfur Compounds, was submitted by the Department of Natural Resources on November 19, 1986.

(i) *Incorporation by reference.* (A) Amended Regulation 10 CSR 10-3.100, Restriction of Emission of Sulfur Compounds adopted October 16, 1986, and effective on November 28, 1986.

[FR Doc. 88-3163 Filed 2-16-88; 8:45 am]

BILLING CODE 6560-50-M

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## 40 CFR Part 52

**[A-1-FRL-3329-2]**

## Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Effective Date Clarification

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This action approves a revison to the Connecticut State Implementation Plan (SIP) which clarifies in the Code of Federal Regulations the effective date of Connecticut State Order No. 943 which defines and imposes reasonably available control technology (RACT) for the Connecticut Charcoal Co. in Union, Connecticut. On February 3, 1987, the Connecticut Department of Environmental Protection (DEP) submitted a letter to clarify that the effective date of State Order No. 943 is May 28, 1986. The intended effect of this action is to incorporate this letter by reference into the Connecticut SIP.

**EFFECTIVE DATE:** This action will be effective on April 18, 1988 unless notice is received within 30 days that adverse or critical comments will be submitted.

**ADDRESSES:** Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2313, JFK Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Invironmental Protection Agency, Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW. Washington, DC 20460; and the Air Compliance Unit, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106.

**FOR FURTHER INFORMATION CONTACT:** Lynne Hamjian, (617) 565-3246; FTS 835-3246.

**SUPPLEMENTARY INFORMATION:** On November 20, 1986, (51 FR 41963), EPA published a final rulemaking notice (FRN) to approve Connecticut State Order No. 943 as RACT for the Connecticut Charcoal Co. located in Union, Connecticut. The November 20, 1986 FRN misstated the effective date as April 18, 1986. On February 3, 1987 the Connecticut DEP submitted a letter to EPA to clarify that the effective date of State Order No. 943 is May 28, 1986. This action corrects the effective date to May 28, 1986 and incorporates the State letter by reference into the SIP. This action does *not* change in any way the contents of this State Order; it simply clarifies the effective date.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective Apri 18, 1988.

### Final Action

EPA is approving an amendment which clarifies that the effective date of Connecticut State Order No. 943 is May

28, 1986 and is incorporating by reference a letter submitted on February 3, 1987 by the Connecticut DEP.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 18, 1988. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Air pollution control, Ozone, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Date: February 10, 1988.

**Lee M. Thomas,**

*Administrator.*

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

### Subpart H—Connecticut

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.370 is amended by adding paragraph (c)(41) to read as follows:

**§ 52.370 Identification of plan.**

* * * * * *

(c) * * *

(41) Revision to the Connecticut State Implementation Plan submitted by the Commissioner of the Department of Environmental Protection on February 3, 1987.

(i) Incorporation by Reference:

(A) A letter from the Connecticut Department of Environmental Protection dated February 3, 1987 which states that the effective date of State Order No. 943, approved previously, for Connecticut Charcoal Co. is May 28, 1986.

[FR Doc. 88–3306 Filed 2–16–88; 8:45 am]

BILLING CODE 6560–50–M

**40 CFR Part 52**

**[FRL–3324–3]**

## Approval and Promulgation of Implementation Plans; Michigan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the State of Michigan's total suspended particulate (TSP) State Implementation Plan (SIP) for Michigan, Act No. 65 of the Public Acts of 1986. Michigan's submittal of April 29, 1986, for Air Pollution Control Act (APCA) No. 65 revises the State's 1965 APCA No. 348, with respect to: (1) Car ferries having the capacity to carry more than 110 motor vehicles and (2) coal-fueled trains used in connection with tourism. EPA believes the approval of this SIP revision will not jeopardize the attainment and maintenance of any national ambient air quality standards (NAAQS) including EPA's revised particulate matter standard published on July 1, 1987 (52 FR 24633).

**EFFECTIVE DATE:** This rule will become effective on March 18, 1988.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at:

Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, Stevens T. Mason Building, 530 W. Allegan, Lansing, Michigan 48909

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

**FOR FURTHER INFORMATION CONTACT:**

Ms. Toni Lesser, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

**SUPPLEMENTARY INFORMATION:** On April 29, 1986, the State of Michigan submitted APCA No. 65, an amendment to Act No. 348 of the 1965 Michigan APCA, as a revision to the Michigan TSP SIP. That submittal also included technical support documentation in the form of emission monitoring data and a screening analysis for the source, which indicated that the car ferry emissions have demonstrated no effect on attainment or maintenance of the NAAQS for TSP resulting from uncontrolled operation of this source.

APCA No. 65 was approved by the Governor of the State of Michigan on March 30, 1986. This Act amended APCA No. 348 of 1965 by adding section 7a which (first) exempts car ferries having the capacity to carry more than 110 motor vehicles and (second) exempts from the requirements of APCA No. 348 coal-fueled trains used in connection with either tourism, or the transportation of works of art, or items of historical interest.

### Car Ferries

Michigan's APCA No. 65 affects only one car ferry operation which is located in the City of Ludington, Mason County and is owned by the Michigan-Wisconsin Transportation Company. This Company operates a single car ferry ("City of Midland") between Ludington, Michigan, and Kewaunee, Wisconsin, on a daily basis. Ludington, Michigan, is currently designated attainment for all NAAQS and has one TSP monitoring site in use. The nearest monitor to the ferry docks in Ludington did not record any exceedances of the TSP standards during the years of the monitor's operation (1977–1981), at which time two car ferries were in operation; and the City of Ludington was designated as a TSP secondary nonattainment area. Analysis of the receptor filters in use during the days when nonattainment level readings were recorded, showed no particulate matter traceable to car ferry emissions.

### Coal-Fueled Trains

Michigan has only a few coal-fueled trains known to exist that operate as amusement rides and tourist attractions. There are presently no coal-fueled trains in existence on commercial railroad lines. The only train that operates on a semi-regular basis is known as the "Art Train." The Art Train usually operates from early spring to late fall, traveling from one city to another on a weekly basis.

On February 25, 1987 (52 FR 5553), EPA proposed approval of Michigan Act No. 65 as a revision to the Michigan SIP. During the 30-day public comment period, EPA received no comments on the proposed approval. EPA's complete review of this SIP revision is contained in technical support documents (TSDs) dated July 18, 1986, and October 27, 1986.

### Final Action

EPA is approving the Michigan Act No. 65 of the Public Acts of 1986 as a revision to the Michigan TSP SIP. EPA believes approval of this SIP revision will not jeopardize the attainment and

maintenance of any NAAQS as a result of uncontrolled operation of these sources.

On July 1, 1987, EPA published final approval of the revised particulate matter standard (52 FR 24634 and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with a nominal diameter of 10 micrometers or less ($PM_{10}$). However, at the State's option, EPA is continuing to process SIP revisions which were in progress at the time the new $PM_{10}$ standard was promulgated. In the policy published on July 1, 1987, (p. 24679, Column 2) EPA stated that it would regard existing SIP revisions as necessary interim particulate matter plans during the period preceding the approval of State plans specifically aimed at attaining the $PM_{10}$ NAAQS. EPA believes that this Michigan rule is consistent with the new $PM_{10}$ standard and can also be considered an interim step towards expeditious development of approvable $PM_{10}$ plans for Michigan. Thus, EPA is granting final approval of this SIP revision.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 18, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

**Note:** Incorporation by reference of the State Implementation Plan for the State of Michigan was approved by the Director of the Federal Register on July 1, 1982.

Date: January 29, 1988.

**A. James Barnes,**

*Acting Administrator.*

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

## PART 52—APPROVAL PROMULGATION OF IMPLEMENTATION PLANS

### Subpart X—Michigan

1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7642.

2. Section 52.1170 is amended by adding paragraph (c)(84) to read as follows:

**§ 52.1170 Identification of plan.**

* * * * *

(c) * * *

(84) On April 29, 1986, the State of Michigan submitted a revision to the Michigan State Implementation Plan (SIP) for total suspended particulates (TSP). The revision, in the form of Air Pollution Control Act (APCA) No. 65, revises the State's 1965 APCA No. 348 contained in the TSP portion of the Michigan SIP with respect to: car ferries having the capacity to carry more than 110 motor vehicles; and coal-fired trains used in connection with tourism.

(i) Incorporation by reference.

(A) Act No. 65 of the Public Acts of 1986, as approved by the Governor of Michigan on March 30, 1986.

[FR Doc. 88–3042 Filed 2–16–88; 8:45 am]

BILLING CODE 6560–50–M

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 101–40

**[FPMR Amdt. G–84]**

### Transportation and Traffic Management

**AGENCY:** Federal Supply Service, GSA.

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration amends 41 CFR Part 101–40 by revising the provisions of § 101–40.206 to establish the liability of carriers transporting Government employees' household goods under Government bills of lading (GBLs) pursuant to the GSA Centralized Household Good Traffic Management Program (CHHGTMP) (41 CFR Subpart 101–40.2) at the limits of liability prescribed in the tender of service (TOS) agreement between GSA and household goods carriers participating in the CHHGTMP.

**EFFECTIVE DATE:** February 17, 1988.

**FOR FURTHER INFORMATION CONTACT:** Joseph M. Napoli, Regulations and Policy Division, FTS 557–1256 or commercial 703–557–1256.

**SUPPLEMENTARY INFORMATION:** Section 201(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)), details GSA's responsibility (with respect to executive agencies) for prescribing policies and methods of procurement and supply of personal property and nonpersonal services, including related functions such as transportation and traffic management.

GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

**List of Subjects in 41 CFR Part 101–40**

Freight, Government property management, Moving of household goods, Office relocation, Transporation.

For the reasons set forth in the preamble, 41 CFR Part 101–40 is amended as follows:

## PART 101–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

1. The authority citation for Part 101–40 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. FPMR Temp. Reg. G–49, effective June 16, 1987, published in the **Federal Register** on July 13, 1987 (52 FR 26151), is canceled and removed from the appendix at the end of 41 CFR Subchapter G.

### Subpart 101–40.2—Centralized Household Goods Traffic Management Program

3. Section 101–40.206 is revised to read as follows:

**§ 101–40.206 Household goods carriers' liability.**

The GSA tender of service (TOS) agreement and the carriers' applicable tariffs establish the carriers' minimum liability for the loss of or damage to Government employees' household goods transported in conjunction with this subpart. A value exceeding the established TOS or tariff minimum may be declared on the bill of lading, but the carrier will charge a valuation fee for each $100, or fraction thereof, of such higher declared valuation. Employees should be fully informed as to the extent the Government will be monetarily responsible for the transportation of household goods, the differences in standard liability under Government

and commercial bills of lading, the steps necessary to increase or decrease the carriers' liability, and the relative advantage the employee would have under the Military Personnel and Civilian Employees' Claims Act of 1964 (see § 101–40.207(b)) when the employee chooses to declare a valuation that either exceeds (in which case, the employee is liable for an excess valuation charge) or does not exceed the TOS or tariff minimum.

(a) When a Government employee's household goods are shipped under a GBL via carriers participating in the GSA Centralized Household Goods Traffic Management Program, the TOS agreement establishes the carrier's minimum liability for loss or damage, and the carrier's tender or tariff prescribes any additional charges for which the Government may be responsible relative to that liability. In the absence of an employee's written request for a valuation that exceeds the minimum liability specified in the TOS agreement, all GBLs should be annotated to show the minimum liability specified in the TOS agreement. If an employee requests the agency to declare a valuation that exceeds the TOS minimum, the agency will enter the declaration on the GBL, pay the carrier the valuation fee (if applicable), and collect the fee from the employee. Should the employee's request for increased valuation be made after the GBL has been tendered to the carrier but before the shipment has been picked up, the employee should not make a separate arrangement with the carrier for increased valuation. Instead, the employee should notify the GBL issuing officer of the valuation desired, and request that the original GBL be amended on Standard Form 1200, Government Bill of Lading Correction Notice. (See § 101–41.4901–1200.)

(b) When a Government employee's household goods are shipped under the commuted rate system, the employee makes all arrangements for moving his/her household goods, and is reimbursed to the extent provided in the commuted rate schedule. If the employee chooses to have his/her household goods transported by a commercial carrier, the shipment will move on a commercial bill of lading. The carrier's tariff establishes the standard level of carrier liability when the shipper fails to declare a value on the bill of lading, prescribes the options the shipper has for increasing or decreasing the carrier's standard liability, and sets the valuation fee payable when the declared value exceeds the minimum carrier liability for which no valuation fee applies. To limit the carrier to the minimum liability and avoid having to pay a valuation fee, the shipper must annotate the bill of lading in accordance with the provisions of the tariff.

Dated: January 25, 1988.

**T.C. Golden,**

*Administrator of General Services.*

[FR Doc. 88–3245 Filed 2–16–88; 8:45 am]

BILLING CODE 6820–24–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 22, and 25

**[General Docket 84–1234; RM–4247]**

### Land Mobile Satellite Service; Frequency Allocations and Radio Treaty Matters

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for reconsideration of action in rulemaking proceeding; extending time for opposition comments and replies.

**SUMMARY:** This action extends the time for filing comments and replies in response to the Petition for Further Reconsideration (53 FR 754, January 12, 1988) [1] filed by various aviation parties. Hughes Communications Mobile Satellite Service, Inc., MCCA Space Technologies Corporation, McCaw Space Technologies, Inc., Mobile Satellite Corporation, North American Mobile Satellite, Satellite Mobile Telephone Co., Skylink Corporation, and Transit Communications filed a joint request for an extension of time in order to prepare materials requested by the Commission in the licensing phase of this proceeding and to meld the views of the eight Mobile Satellite System applicants into one filing which will be submitted as comments to the Petition for Further Reconsideration In order to objectively review the Petition the Commission is extending the time for filing comments and replies.

**DATES:** Comments are now due February 8, 1988. Reply comments are now due February 23, 1988.

**ADDRESS:** Federal Communications Commission; Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Raymond LaForge. Office of Engineering and Technology. (202) 653–8117.

**SUPPLEMENTARY INFORMATION:** The Memorandum Opinion and Order in Gen. Docket No. 84–1234, RM–4247, FCC 87–302, adopted September 17, 1987 and released November 9, 1987, *summary published,* 52 FR 44985, November 24, 1987.

Federal Communications Commission.

**Bruce A. Franca,**

*Acting Chief Engineer.*

[FR Doc. 88–2742 Filed 2–16–88; 8:45 am]

BILLING CODE 6712–01–M

[1] Editorial note: The petition for reconsideration was submitted for publication in the Notices section of the Federal Register.

### 47 CFR Part 43

**[CC Docket No. 87–252, FCC 88–22]**

### Common Carrier Reporting Requirements; Public Coast Station Operator Reports

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission eliminated § 43.71 reports which are filed semi-annually by public coast station operators. Information in these reports is not used for periodic statistical compilation, and is seldom used in a special study, application or tariff review, or complaint investigation.

**EFFECTIVE DATE:** February 17, 1988.

**FOR FURTHER INFORMATION CONTACT:** Alan Feldman, Common Carrier Bureau, Industry Analysis Division, (202) 632–0745.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's report and order, CC Docket 87–252, adopted January 19, 1988 and released February 8, 1988.

The full text of this Commission notice is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

#### Summary of Report and Order

Section 43.71 of the Commission's Rules and Regulations, 47 CFR 43.71, requires each common carrier operating public coast stations engaged in radiotelegraph communication with maritime mobile stations (other than on the Great Lakes and on inland waters) to file reports with this Commission containing data on radiotelegraph traffic. In this Report and Order we eliminated a reporting requirement that is obsolete and unnecessary. The current reporting rules were

promulgated in 1941 and have never been amended.

Pursuant to § 43.71, reports are filed twice a year covering the periods January through June and July through December respectively. Eight companies filed reports for 1986. They were Atlantic Marine Communications, Global Marine Communications, Inc., ITT World Communications, Inc., Mobile Marine Radio, Inc., Radio KLC, Inc., RCA Global Communications Corp., Seattle Marine Radio, and TRT Telecommunication Corp. Revenues earned by the reporting carriers, for this radiotelegraph service during 1986, ranged from less than $50,000 to a high of slightly greater than $4 million.

To further reduce unnecessary regulatory paperwork, we eliminated § 43.71 reports. The information in the reports has only been used by this Commission on an infrequent and limited basis. We do not copile or publish any information from these reports. Summary data are included in the annual reports filed by radiotelegraph, ocean-cable, and wire-telegraph carriers.

Eliminating the § 43.71 reports does not preclude us from directing the affected carriers to file detailed information should the need arise. We believe that most of our needs for data are adequately met with other reports. When necessary, special data requests can be tailored to specific needs. Since there is no ongoing need for semi-annual data, special studies will eliminate the need for carriers operating public coast stations engaged in radiotelegraph communications with maritime mobile stations to submit reports semi-annually. This will not only reduce the costs to the carriers, it will also reduce this Commission's costs.

The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to reduce information collection requirements on the public.

In compliance with the provisions of section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we certify that the elimination of the § 43.71 reports will not have a significant economic impact and will ease the recordkeeping and reporting requirement of these carriers. The rationale for the elimination is outlined in the above discussions.

### Ordering Clauses

Accordingly, it is ordered, that pursuant to the provisions of sections 4(i), 219, 220, 403 and 404 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 219, 220, 403 and 404, and section 553 of the Administrative Procedure Act, 5 U.S.C. 553, the policies discussed herein are adopted, and that § 43.71 is eliminated as set forth in the Appendix, effective upon publication in the **Federal Register**. It is further ordered, that this proceeding is hereby terminated.

### List of Subjects in 47 CFR Part 43

Communications common carrier, Reporting requirements, Public coast station operators.

**H. Walker Feaster III,**

*Acting Secretary.*

### Appendix

## PART 43—[AMENDED]

1. The authority citation for Part 43 continues to read as follows:

**Authority:** Sec. 4, 48, Stat. 1066, as amended: 47 U.S.C. 154, unless otherwise noted. Interpret or apply Secs. 211, 219 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220, unless otherwise noted.

### § 43.71 [Removed]

2. Part 43 is amended by removing § 43.71.

[FR Doc. 88-3345 Filed 2-16-88; 8:45 am]

BILLING CODE 6712-01-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1150

**[Ex Parte No. 392; Sub-No. 1]**

### Class Exemption for the Acquisition and Operation of Rail Lines

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Interim rules.

**SUMMARY:** The Commission is amending 49 CFR 1150.32 and 1150.33 to require applicants who file notices of exemption under the class exemption rules, in 49 CFR Part 1150, Subpart D, to provide information about historic properties affected by the transaction to appropriate State Historic Preservation Officers and to preserve historic properties to ensure compliance with the National Historic Preservation Act, 16 U.S.C. 470. The interim rules are adopted pending final decision.

**EFFECTIVE DATE:** The interim rules are effective on February 17, 1988.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 275-7245. [TDD for hearing impaired: (202) 275-1721].

**SUPPLEMENTARY INFORMATION:** In several recent proceedings involving acquisitions and operations of rail lines under the class exemption in 49 CFR 1150, Subpart D, issues have been raised about our responsibilities under section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470 and the implementing procedures in 36 CFR Part 800 established by the Advisory Council on Historic Preservation (Council). In particular, we are obligated to make a reasonable and good faith effort to identify historic properties that may be affected by these transactions and gather sufficient information to evaluate the eligibility of properties for the *National Register of Historic Places*. We are also required to consult with appropriate State Historic Preservation Officers (SHPO) to identify historic properties, *see* 36 CFR 800.4.

Our rules in 49 CFR Part 1150, Subpart D, do not at present address the process under section 106 of NHPA. To remedy this we are reopening this proceeding to amend the rules as follows.

We are amending 49 CFR 1150.33(g) to require an applicant to certify that it has provided the SHPO with the identification (including maps, photographs, and descriptions) of sites and structures (a) listed in the *National Register*, and (b) 50 years old and older, that will be transferred as a result of the exempt transaction.

Applicant will probably have to obtain historic information from the seller or present owners. This should be discussed during negotiations. Also, contacting SEE would facilitate our coordination with SHPO to complete the NHPA process. If no historic properties will be affected by the transaction, applicant should so certify.

The Council recognizes that procedures for NHPA should be implemented in a flexible manner to reflect different program requirements, 36 CFR 800.3(b). A flexible approach is particularly appropriate for 49 CFR Part 1150 Subpart D transactions, where often expedited action is necessary. The Council's procedures allow for phased compliance whereby non-destructive activities can be permitted prior to completion of the section 106 process. *See* 36 CFR 800.3(c). The commencement of operations by a new operator would normally be non-destructive. To ensure that the operation does not adversely affect historical property, however, we will require the new operator to

preserve property pending completion of the section 106 process.

The Commission must comply with the section 106 process before it can take final action in exempting a transaction from section 10901 pursuant to section 10505. In carrying out its responsibilities, the Commission must consult with SHPO, which reviews properties involved to determine if any qualify for inclusion in the National Register of Historic Places. When the Commission determines that any structure on the line qualifies for inclusion, it must determine what, if any ameliorative steps must be taken to preserve the involved structure. A final Commission action deleting the restriction in the exemption will be issued when the Section 106 process is complete.

The amendments will be adopted as interim procedures. Notice and comment are not required. Under 5 U.S.C. 553(b)(A) "interpretive rules, general statements of policy, or rules of agency organization, procedure or practice" are exempt from the notice and comment requirement of the Administrative Procedure Act. *See also* 5 U.S.C. 553(d)(2) (30 days notice before effective date not required for interpretive rules). The amendments will not have a substantive impact on the public's procedural due process rights. *See* 5 U.S.C. 704 and *Pennsylvania* v. *United States*, 361 F. Supp. 208, 220–22 (M.D. PA 1973), *aff'd* 414 U.S. 1017 (1973). Rather, they are merely procedures necessary for the Commission and the carriers to carry out their pre-existing obligations under the NHPA, as we now interpret those obligations.

The rules will be effective upon publication. Thus, class exemptions in 49 CFR Part 1150 Subpart D will be subject to the NHPA process immediately. In addition, we will in the near future issue a Notice of Proposed Rulemaking in Ex Parte No. 55 (Sub-No. 22A), *Environmental Documentation in Rail Proceedings* to revise our procedures in 49 CFR Part 1105 for environmental notice and informational requirements. Final rules in this proceeding will be adopted in conjunction with the rulemaking in Ex Parte No. 55 (Sub-No. 22A). Public comment on the amendments we are adopting here should be submitted in that rulemaking proceeding.

The Regulatory Flexibility Act does not apply to this action, because, as noted above, the Commission is not required to publish a notice of proposed rulemaking. *See* 5 U.S.C. 603. Nevertheless, we certify that the procedural amendments will not have a significant economic impact on a substantial number of small entities, because they facilitate the process under NHPA to identify significant historical resources.

This action will not significantly affect either the quality of the human environment or energy conservation.

**List of Subjects in 49 CFR Part 1150**

Administrative practice and procedure, Railroads.

Dated: February 8, 1988.

*It is ordered:*

1. Ex Parte No. 392 (Sub-No. 1) is reopened for the purpose noted above.

2. The procedural amendments as discussed above and set forth below are adopted.

3. The amendments are effective on February 17, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.

**Noreta R. McGee,**

*Secretary.*

Title 49, Part 1150 of the Code of Federal Regulations is amended as follows:

**PART 1150—[AMENDED]**

1. The authority citation for 49 CFR Part 1150 is revised to read as follows:

**Authority:** 49 U.S.C. 10321, 10901, and 10505; 5 U.S.C. 553 and 559.

2. In § 1150.32, paragraph (d) is added reading as follows:

**§ 1150.32 Procedures and relevant dates.**

* * * * *

(d) Applicant must preserve intact all sites and structures more than 50 years old until compliance with the requirements of Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 is achieved.

3. In § 1150.33, paragraph (g) is revised to read as follows:

**§ 1150.33 Information to be contained in notice.**

* * * * *

(g) A certificate that applicant has complied with the notice requirements of 49 CFR 1105.11 and has provided the appropriate State Historic Preservation Officer with the identification (including maps, photographs, and descriptions) of sites and structures listed in the *National Register*, and 50 years old and older, that will be transferred as a result of the exempt transaction.

[FR Doc. 88-3279 Filed 2-16-88; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Polystichum aleuticum

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Fish and Wildlife Service (Service) determines that *Polystichum aleuticum* (Aleutian shield-fern), a perennial known from only two locations in the Aleutian Islands, Alaska, is an endangered species under the authority of the Endangered Species Act (Act) of 1973, as amended. This species is endangered due to its extreme rarity. Mortality from habitat loss due to wind erosion and soil movement, collecting for scientific and educational purposes, and, possibly, grazing and trampling by introduced ungulates have contributed to its rarity. This rule provides protection and recovery provisions afforded by the Act to *Polystichum aleuticum*.

**EFFECTIVE DATE:** March 18, 1988.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Fish and Wildlife Enhancement Field Office, 411 West Fourth Avenue, Suite 2B, Anchorage, Alaska 99501.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Amaral (see **ADDRESSES** section) at 907/271–4575 or FTS 271–4575.

**SUPPLEMENTARY INFORMATION:** .

### Background

*Polystichum aleuticum* (family Polypodiaceae) is a small, tufted fern, about 150 millimeters (6 inches) tall, and arises from a stout, dark brown rhizome with brown scales and numerous chestnut-brown remains of frond bases (Murray 1980). The small, simply-pinnate fronds (leaves) with spiny-toothed pinnae (segments) and distinctive chestnut-brown stipe bases readily distinguish *P. aleuticum* from all other ferns in the Aleutian Islands (Lipkin 1985).

Until recently, *P. aleuticum* was known only from the original collection made by Eyerdam in 1932, who reported its location as Atka Island in the Aleutians (Hulten 1936). Based on Eyerdam's collections, Christensen published a description of the species in

1938. In 1975, D.K. Smith discovered a second population of 15 plants on Mt. Reed, Adak Island, about 160 kilometers (100 miles) west of Atka. The species was not observed in the wild again until 1987, when Smith returned to Mt. Reed on Adak Island and found a population of seven individuals.

This species is known only from these two locations in the Andreanof Island group of the Aleutian Islands, Alaska. It is a very well-marked and extremely narrow endemic without close relatives in North America or northern Asia (Wagner 1979). Its presence in only the Andreanof Island group, which formed a single, large island during maximum glaciation, suggests it may be a relict species that survived on a nunatak or refugium (Lipkin 1985). It apparently has not expanded its range. Smith (1985) describes *P. aleuticum* as among the most restricted and rarest ferns of North America.

In 1975, *P. aleuticum* was found on Adak Island in a north-facing rock outcrop below the summit of the 590 meter (1,936 foot) Mt. Reed. The site consists of treeless, alpine talus slopes that are vegetated with low-growing herbs and prostrate shrubs. No information is available on the location or the status of the Atka population collected by Eyerdam in 1932 other than his annotation, "very rare" (Lipkin 1985). Efforts by Friedman (1984) and Lipkin (1985) to relocate the Atka population were unsuccessful. Despite intensive searching by R. Lipkin and S. Talbot, no plants were seen on Adak in 1984, 1985, or 1986. D.K. Smith returned to Adak Island in 1987, and although he was unable to find *P. aleuticum* in the location of his 1985 collection, a clump of six viable and one uprooted shield-ferns were found a short distance away. These six plants, in an area about 3 m by 3 m square, comprise the total known extant population for this species. Natural mortality due to habitat instability and depletion by collection are documented causes for the loss of individuals. Grazing or trampling by introduced ungulates may also have contributed to the rarity of this species.

Federal Government actions on this species began with section 12 of the Endangered Species Act of 1973 (Act), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian Institution report as a petition within the context of section 4(c)(2) of the Act (petition acceptance is now governed by section 4(b)(3)(A) of the Act), and of its intention thereby to review the status of the plant taxa named therein. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Polystichum aleuticum* was included in the Smithsonian petition and the June 16, 1976, proposal. General comments received in relation to the 1976 proposal were summarized in the **Federal Register** on April 26, 1978 (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over two years old be withdrawn. On December 10, 1979, the Service published a notice (44 FR 70796) withdrawing the June 16, 1976, proposal along with four other proposals that had expired. On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82480); *Polystichum aleuticum* was included in that notice and in the Service's updated plant notice of September 27, 1985 (50 FR 39526).

### Summary of Comments and Recommendations

In the April 24, 1987, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State and Federal agencies, a native corporation and village council, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in *The Aleutian Times* (May 8, 1987), the *Anchorage Daily News* (May 1, 1987), the *Tundra Times* (May 11, 1987), and *The Eagle's Call* (May 8, 1987), all of which invited general public comment.

During the 60-day comment period, a total of 13 written comments on listing were received. No requests for a public hearing were submitted. Of the 12 comments that stated a position on listing, 11 supported the proposed action and one suggested deferring listing until surveys were conducted on islands near Adak and Atka. Support for the listing proposal was voiced by six State and Federal agencies, two university professors, the Curator of Ferns at the National Herbarium in Washington, DC, and two other interested parties.

Although the Department of the Navy, Western Division Naval Facilities Engineering Command, did not oppose listing, they felt that islands near Adak and Atka should be investigated for the presence of the shield-fern prior to listing. The Navy also expressed concern that the causes for the shield-fern's rarity are apparently unknown. While the Service acknowledges the desirability of additional surveys on Adak, Atka, and intervening islands, the Aleutian Islands are not a botanical terra incognita. On the contrary, the Aleutian archipelago is one of the more botanically well known areas in Alaska and individuals most knowledgeable about Aleutian flora are confident that *Polystichum aleuticum* is an extremely rare endemic. Smith (1985 and 1987) describes the Aleutian shield-fern as unquestionably one of the rarest plants in North America. Although the causes for the rarity of this species are unknown, Smith (1987) and others (Hulten 1960 and Lipkin 1985) speculate that it is a relict of an earlier floristic period and past glacial episodes have isolated populations in the central Aleutian district. Today, pocket populations of the shield-fern probably persist but evidently have not prospered in the central Aleutian Islands, and may be sufficiently separated to prevent gene flow (Smith 1987). The Service agrees that additional intensive surveys will probably identify new populations of *Polystichum aleuticum* but that it will remain an extremely rare species.

Section 4 of the Endangered Species Act and regulations implementing this section specify that a species shall be listed on the basis of the best scientific and commercial data available after conducting a review of them status of the species. Implicit in this standard is that all existing data should be reviewed and that these data convincingly support the proposed action. The standard does not imply that exhaustive studies or data are required or that all potential habitat is surveyed. To do so could delay listing actions beyond the point of recovery for numerous species.

### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Aleutian shield-fern (*Polystichum aleuticum*) should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C.

1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Polystichum aleuticum* C. Chr. (Aleutian shield-fern) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Mt. Reed site on Adak Island lies within the Adak Naval Air Station and the Alaska Maritime National Wildlife Refuge. No present or anticipated development is likely to alter this site or similar alpine habitats on Adak Island. Mt. Reed is accessible to hunters and hikers. There is a well-worn trail along the ridge on the north peak but a remote threat to the fern exists only if hikers stray from the established trail and attempt a difficult traverse of the mountain face. Atka Island is partially in private ownership (Atxam Native Corporation) and partially public land administered by the Service as a National Wildlife Refuge. Proper protection and management plans are needed for all sites containing populations of the fern so that it is not inadvertently disturbed or destroyed.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for commercial or recreational purposes has not been a documented factor in the decline of this species. However, taking for scientific and educational purposes has reduced the population, and, given its extreme rarity, collecting could pose a further threat in the future.

C. *Disease or predation.* Caribou were introduced to Adak Island in 1958, and 250–400 animals now occur on the island. Although the Mt. Reed site is inaccessible, caribou could browse the fern elsewhere on the island where it may occur as yet undiscovered. C.F. Zeillemaker, former Refuge Manager on Adak, reports that reindeer, introduced to Atka Island in 1914, have overgrazed the west end of that island. The exact location of *Polystichum* on Atka has not been confirmed; however, Service personnel are researching collection records of deceased botanists, who originally located the plant on Atka.

D. *The inadequacy of existing regulatory mechanisms.* The State of Alaska does not have specific legislation or regulations to protect endangered or threatened plant species, although a list of rare State plants exists. All plants occurring on National Wildlife Refuges are protected from collecting (50 CFR 27.51); therefore, *P. aleuticum* occurring within the Alaska Maritime National Wildlife Refuge is protected by this prohibition, to the extent it is enforceable. The Act would enhance existing protection through section 7 (interagency cooperation), and section 9, which further prohibits removal from Federal lands and reduction to possession, and restricts interstate commercial activity.

E. *Other natural or manmade factors affecting its continued existence.* The Mt. Reed population is of critically small size and its alpine environment is unstable. Several hundred seismic events a year are recorded for Adak Island by the Alaska Tsunami Warning Center. The frequent earthquakes in the geologically active Aleutian chain could destabilize the rock outcrops supporting the Mt. Reed population. Soil movement (solifluction) or substrate release accounted for the mortality of one of the seven specimens observed by D.K. Smith in 1987. Climatic cycles or events may further affect the vigor, spore production and success of this small population. Curious individuals or botanists visiting the Mt. Reed site could unintentionally disturb the fragile vegetation supporting the slope below the fern outcrop. Increased foot traffic could degrade this vegetation and lead to irreversible mass-wasting of the rubble slope and outcrop (Smith 1987). The fern's diminutive size, small gene pool, and highly restricted distribution all contribute to its susceptibility to inadvertent destruction.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Polystichum aleuticum* as endangered, without critical habitat. Endangered status is appropriate due to its extreme rarity and vulnerability to extirpation from a single catastrophic event. Critical habitat is not being determined for reasons discussed in the following section.

## Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species for the following reasons. The Adak population of *Polystichum aleuticum* is sufficiently restricted that unauthorized collecting or vandalism could significantly affect its survival. Publication of critical habitat descriptions and maps in the Federal Register would increase the likelihood of such activities. Moreover, the population of *P. aleuticum* on Adak is located on a National Wildlife Refuge, Refuge personnel and the Naval Air Station Command have been advised of the presence of the fern and possible management needs, and villagers in Atka are aware that the plant was found there. No other public notification benefits would accrue from designating critical habitat. Since designation of critical habitat could increase the threats facing this species but would not result in any benefits, the Service concludes that designation of critical habitat is not prudent.

## Available Conservative Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages additional survey work and conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition (should *P. aleuticum* occur on private land on Atka) and cooperation with the State of Alaska. The Act also requires that recovery activities be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Examples of Federal activities that could affect alpine areas where the fern occurs include military training exercises, tactical operations involving shelling or detonating devices, or the construction of new facilities such as radar or receiving stations.

Both Adak and Atka Islands are within the Aleutian Islands Unit of the Alaska Maritime National Wildlife Refuge. However, certain lands on Atka have been selected and conveyed to the Atxam Native Corporation under the Alaska Native Claims Settlement Act of 1971. The northern half of Adak Island (including Mt. Reed), though still within the Refuge, is a U.S. Naval Reservation within which the Navy has development rights that can be exercised if compatible with Refuge resources. Immediate measures to protect *P. aleuticum* may entail coordination with the Refuge and Navy to restrict access to the Mt. Reed site, additional surveys to define current range, and fencing to exclude introduced ungulates if new populations are found in terrain accessible to these animals. Future recovery activities may include population biology investigations in support of in vitro cultivation to ensure survival and to allow for reintroduction into secure habitat.

This rule brings sections 5 and 6 of the Endangered Species Act into effect with respect to the Aleutian shield-fern. Section 5 authorizes the acquisition of lands for the purpose of conserving endangered and threatened species. Pursuant to section 6, the Fish and Wildlife Service would be able to grant funds (should they become available) to the State of Alaska for management actions aiding the protection and recovery of the fern.

Listing the Aleutian shield-fern as endangered allows for development of a recovery plan for this plant. Such a plan will draw together the State, Federal, and local agencies having responsibility for conservation of this species. The recovery plan will outline an administrative framework, sanctioned by the Act, for agencies to coordinate activities and cooperate in their conservation efforts. The recovery plan will describe recovery priorities and estimate the cost of various tasks necessary to accomplish them. It will recommend appropriate functions to each agency and a time within which to complete them.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62 and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export an endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits will even be sought or issued since the species is quite small in size and is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquires regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 27329, Washington, DC 20038-7329 (202/343-4955).

### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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### Author

The primary author of this proposed rule is Mr. Michael Amaral, Endangered Species Specialist, U.S. Fish and Wildlife Service, 411 West Fourth Avenue, Suite 2B, Anchorage, Alaska 99501 (907/271-4575).

### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

### Regulation Promulgation

## PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

**Authority:** Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Polypodiaceae, to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and threatened plants.**

* * * * *

(h) * * *

| Species | | Historic range | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|
| Scientific name | Common name | | | | | |
| * * * | * * * | * * * | | | | |
| Polypodiaceae-Fern family: | | | | | | |
| *Polystichum aleuticum* | Aleutian shield-fern | U.S.A. (AK) | E | 305 | NA | NA. |
| * * * | * * * | * * * | | | | |

Dated: January 12, 1988.

**Susan Recce,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 88-3322 Filed 2-16-88; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 652

**[Docket No. 70617-7239]**

### Atlantic Surf Clam and Ocean Quahog Fisheries

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule.

**SUMMARY:** NOAA issues a final rule amending the regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) so that they are consistent with Amendment 5 to the FMP. Amendment 5 created a range within which the allowable minimum surf clam size could vary. This rule allows NOAA to reopen areas, which were closed because of the predominance of small surf clams, when the dominant size of the surf clams is at least the prevailing minimum size, rather than the 5½ inches established by an earlier amendment to the FMP.

**EFFECTIVE DATE:** March 14, 1988.

**FOR FURTHER INFORMATION CONTACT:** Peter D. Colosi (Surf Clam Coordinator), 617-281-3600.

**SUPPLEMENTARY INFORMATION:** One provision of the regulations implementing the FMP is amended by this rule.

The reasons for this action were published in the proposed rule (52 FR 25042, July 2, 1987) and are not repeated here. Public comments were invited until August 3, 1987. No public comments were received. After this rule becomes effective, the surf clam size criterion which must be met before an area can be reopened will relate to the prevailing minimum surf clam size and not 5½ inches.

### Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is consistent with the Magnuson Fishery Conservation and Management Act and other applicable laws.

The Assistant Administrator finds no potential negative impact on the surf clam resource as a result of this change. An environmental assessment was prepared which explains the projected effects of the rule and finds that this action is non-significant under the National Environmental Policy Act.

The General Counsel of the Department of Commerce certified to the Small Business Administraton that this rule will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

The Assistant Administrator has determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

The Administrator of NOAA has determined that this rule is not a "major" rule under Executive Order 12291.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

### List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: February 11, 1988.

**James E. Douglas, Jr.,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set forth in the preamble, 50 CFR Part 652 is amended as follows:

## PART 652—[AMENDED]

1. The authority citation for Part 652 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 652.23, paragraph (b)(2)(i) is revised to read as follows:

**§ 652.23 Closed areas.**

* * * * *

(b) * * *

(2) * * *

(i) The average length of the dominant (in terms of weight) size class in the area to be reopened is equal to or greater than the prevailing minimum surf clam size established in accordance with § 652.25 of the regulations; or

* * * * *

[FR Doc. 88-3321 Filed 2-11-88; 2:38 pm]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 53, No. 31
Wednesday, February 17, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 950

### Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing proposed regulations governing solicitation of Federal civilian and uniformed services personnel for contributions to private voluntary organizations under the authority of Executive Order 12353 (March 23, 1982), Charitable Fund-Raising, 47 FR 12785 (March 23, 1982), Executive Order 12404 (February 10, 1983), Charitable Fund-Raising, 48 FR 6685 (February 15, 1983). These regulations are intended to be consistent with the restrictions placed on OPM by section 618 of the Treasury, Postal Service, and General Government Appropriations Act for 1988. These regulations provide a system for administering the annual charitable solicitation campaign conducted by Federal personnel in their Government workplaces and set forth ground rules under which charitable organizations may receive contributions from Federal personnel through the Combined Federal Campaign.

**DATE:** Comments on this notice must be received by OPM no later than March 18, 1988.

**ADDRESS:** Comments should be submitted to: Jeremiah J. Barrett, CFC Coordinator, Office of Personnel Management, Room 7354, 1900 E Street NW, Washington, DC 20414.

**FOR FURTHER INFORMATION CONTACT:** Jeremiah J. Barrett, CFC Coordinator, 202–632–5564.

**SUPPLEMENTARY INFORMATION:** On December 21, 1987, the United States Congress passed the Treasury, Postal Service, and General Government Appropriations Act for FY 1988, Pub. L. 100–202. Section 618 of Pub. L. 100–202 included permanent legislation on the Combined Federal Campaign (CFC). These regulations are proposed to comply with the provisions of the law.

**E.O. 12291, Federal Regulation**

After a careful review of the proposed rulemaking, including the analysis set forth below, for purposes of the Regulatory Flexibility Act, OPM has determined that this is not a major rule for purposes of Executive Order No. 12291, Federal Regulations, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in the costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

**Regulatory Flexibility Act**

*(1) Reasons Why Action by Agency Is Being Considered*

OPM proposes these new rules because President Reagan's Executive Order No. 12404 and Pub. L. 100–202 require OPM to promulgate rules for charitable solicitation in the Federal workplace.

*(2) Objectives and Legal Basis for Rule*

These regulations are issued under Executive Orders No. 12353 and 12404, and Pub. L. 100–202. The objective of these regulations is to provide a system for administering the annual charitable solicitation drive among Federal civilian and military employees in the CFC, and to set forth ground rules under which charitable organizations receive Federal employee donations through the CFC.

*(3) Number of Small Entities Covered Under the Rule*

The rule would apply to all human health and welfare agencies that apply to participate in the CFC.

*(4) Reporting, Recordkeeping and Other Compliance Requirements of the Rule*

The new rules continue, for the most part, the reporting, recordkeeping, and other requirements that have been a part of the campaign operations since the 1984 CFC. The paperwork burden is kept to the minimum necessary to be consistent with the governing Executive orders and the statute.

**Paperwork Reduction Act of 1980**

Sections 950.105, 950.202, 950.203, 950.204, 950.302, 950.303, 950.601, and 950.901 contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Office of Personnel Management will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph F. Lackey.

The rules assure the free choice of the employee to contribute or not to contribute to those agencies found eligible to participate in the CFC. The Government has no obligation to subsidize these voluntary agencies or those found ineligible to participate in the CFC. So every effort must be made by the responsible Federal officials to reduce the cost to the Government of the operation of the CFC and to shift the cost of CFC operations to the beneficiaries of the Federal donors.

These regulations in no way inhibit solicitation by any organization that may wish to conduct a fund-raising drive other than in the Federal workplace. Thus, there is no regulatory burden placed upon ineligible agencies. The regulatory burden imposed on participating agencies is minimal.

*(5) Relevant Federal Rules Duplicating, Overlapping or Conflicting With the Rule*

There are no duplicating, overlapping or conflicting Federal rules that apply to the CFC.

The campaign arrangements used from 1984 through 1987 were fundamentally unsound and raised

administrative costs excessively. They proved to be unduly controversial and disruptive of the Federal workplace. OPM has taken as much advantage as it can within the limitations imposed on it by the statute, to improve the operation of the CFC. There have been no substantial changes in compliance or reporting requirements.

*(7) Clarification, Consolidation and Simplification of Compliance and Reporting Requirements*

As was noted above there are no substantial changes to compliance and reporting requirements.

*(8) Use of Other Standards*

Appropriate alternative standards are not available that would impose less burdensome regulations, unless the CFC was abolished.

*(9) Exemption of Small Entities From Coverage*

Exemptions from coverage for small entities is not practical because many of the eligible voluntary agencies are small entities, and exceptions for those groups would frustrate the major purposes of Executive Order No 12404 and Pub. L. 100-202: to limit participation to voluntary agencies delivering service and benefits to human beings and to require that eligible organizations meet reasonable standards of financial integrity and public accountability. As a result of the above Regulatory Flexibility Analysis, I have determined that the rule will not have any significant detrimental economic impact on a substantial number of small entities.

**List of Subjects in 5 CFR Part 950**

Charitable contributions, Government employees, Nonprofit organizations.

U.S. Office of Personnel Management.

**Constance Horner,**

*Director.*

Accordingly, OPM proposes to revise 5 CFC Part 950 to read as follows:

## PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATION

**Subpart A—General Provisions**



**Authority:** E.O. 12353 (March 23, 1982), 47 FR 12785 (March 25, 1982), 3 CFR 1982 Comp., p. 139, E.O. 12404 (February 10, 1982), 48 FR 6685 (February 15, 1983), and Pub. L. 100-202.

### Subpart A—General Provisions

**§ 950.101 Definitions.**

"Business Days" means calender days exclusive of Saturdays, Sundays, and Federal holidays.

"Combined Federal Campaign" or "Campaign" or "CFC" means the charitable fund-raising program established and administered by the Director of the Office of Personnel Management (OPM) pursuant to Executive Order No. 12353, as amended by Executive Order No. 12404, and all subsidiary units of such program.

"Designated Funds" means those contributions which the contributor has designated to a specific voluntary agencies.

"Director" means the Director of the Office of Personnel Management.

"Domestic Area" means the several United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

"Employee" means any person employed by the Government of the United States or any branch, unit, or instrumentality thereof, including persons in the civil service, uniformed service, foreign service, and the postal service.

"Federation" or "Federated Group" means a group of voluntary charitable human health and welfare agencies organized for purposes of supplying common fund-raising, administrative, and management services to its constituent members.

"International Agency" means a voluntary agency that provides services either exclusively or in a substantial preponderance in the overseas area or on behalf of non-U.S. citizens in the overseas area.

"Local Federal Coordinating Committee" or "LFCC" means the group of Federal officials designated by the Director to conduct the CFC in a particular community.

"Overseas Area" means the Department of Defense (DoD) Overseas Campaign which include all areas other than those included in the domestic area.

"Principal Combined Fund Organization" or "PCFO" means the federated group or groups or the voluntary agency or agencies selected by the LFCC to administer the local campaign under the direction and control of the LFCC and the Director.

"Undesignated Funds" means those contributions which the contributor has not designated to a specific voluntary agency or federated group.

"Voluntary Agency" means a private, non-profit, philanthropic, human health and welfare organization.

**§ 950.102 Scope of the Combined Federal Campaign.**

(a) The CFC is the only authorized charitable fund-raising drive in the Federal workplace. A campaign may be conducted in every Federal agency in the campaign community in accordance with these regulations. No other fund-raising drive may be conducted in the Federal workplace without the express written permission of the Director, and no departure from these rules is permitted without the express written permission of the Director.

(b) The Director establishes and maintains the official list of local CFCs and each CFC's geographic coverage. CFCs are normally conducted in those locations which include a Federal employee population of at least 300 or more employees.

(c) Realignment of the geographical boundaries of local campaigns may be done only upon the express written permission of the Director.

(d) Payroll allotments to voluntary agencies are only authorized at those locations that are included in an established CFC as defined by the Director.

(e) The solicitation of employees will occur for a six-week period between September 1 and November 15, as established by the LFCC. The six-week period may be extended by the LFCC as local conditions require but, in no event may it be extended beyond November 15.

**§ 950.103 Structure of the Combined Federal Campaign.**

(a) The Director exercises general supervision over all operations of the CFC, and takes all steps that may be necessary and proper to ensure the achievement of the campaign objectives. The decisions and rulings of the Director for administrative purposes are final.

(b) The Director establishes a LFCC to govern the conduct of the local CFC. The LFCC will, whenever possible, be comprised of members of local Federal inter-agency organizations, or, in the absence of such organizations, will include all the local Federal agency heads or their representatives. It will also include, wherever possible, representatives of employee unions and other employee groups.

(c) The head of the local Federal installation having the largest number of employees is responsible for organizing the LFCC and assuring that it carries out its responsibilities in accordance with these regulations. The LFCC chairmanship will normally rotate among its members.

**§ 950.104 Local Federal Coordinating Committee.**

(a) The LFCC is responsible for organizing the local CFC, deciding on the eligibility of local voluntary organizations, supervising the activities of the PCFO, and acting upon any problems relating to a voluntary agency's noncompliance with the policies and procedures of the CFC.

(b) The LFCC shall, by majority vote, select a PCFO to administer the campaign and to serve as fiscal agent. The Director may review this selection and, at any time, substitute a different PCFO. The Director's decision on the PCFO is final for administrative purposes.

(c) The responsibilities of the LFCC include, but are not limited, to the following:

(1) Selecting the PCFO on the basis of presentations made to the local committee by applicant organizations. The LFCC shall consider the efficiency and effectiveness of the campaign as the primary factors in selecting a PCFO.

(2) Ensuring that the PCFO selected or retained does not use the services of consulting firms, advertising firms or similar business organizations to perform the policy-making or decision-making functions in the CFC. A PCFO may, however, contract with entities or individuals such as banks, accountants, lawyers, and other vendors of goods and/or services to assist in accomplishing its tasks.

(3) Ensuring that, within the limits of the policies and procedures established by the Director nationally, local campaign arrangements are facilitated.

(4) Naming a campaign chairman.

(5) Ensuring that no employee is coerced in any way to participate in the campaign.

(6) Bringing allegations of coercion to the attention of the Director and the employee's agency.

(7) Monitoring the work of the PCFO, and inspecting closely the annual audit required of the PCFO.

(8) Encouraging local Federal agencies to detail, on administrative leave, loaned executives to assist in the campaign; encouraging the establishment of a thorough network of employee keyworkers and volunteers; and cooperating on interagency briefing sessions and kick-off meetings.

(9) Ensuring that every employee is given the opportunity to participate in the CFC, and that employee designations are honored.

(1) Encouraging specific designations to voluntary agencies.

(11) Dividing undesignated contributions in accordance with the formula established by law and repeated in these regulations.

(12) Calling any significant questions concerning the campaign to the attention of the Director, and abiding by the Director's decisions on these questions.

(13) Determining the eligibility of local organizations that apply to participate in the local campaign.

(14) Ensuring that the list of charities found by the Director to be nationally eligible to participate in all local campaigns is faithfully reproduced in the local brochure.

(15) Ensuring that the local brochure and pledge card are produced in accordance with these regulations.

(16) Developing understanding of campaign policies procedures and voluntary agency programs among Federal employees by serving as the central point of information.

**§ 950.105 Principal Combined Fund Organization.**

(a) Only federations or voluntary agencies may serve as the PCFO.

(b) Any organization that wishes to apply to be the PCFO must submit to the LFCC on or before March 1 of each year:

(1) A written campaign plan which shall be in sufficient detail to allow the LFCC to determine if the applicant could administer an efficient and effective CFC, and shall include a CFC budget that details all costs estimated to be required to operate the CFC. The costs in the budget shall be based on estimated actual expenses, not on the percentage of the funds raised in the local campaign, and

(2) A written application to the LFCC which will include a pledge signed by the organization's local director or equivalent pledging to administer the CFC fairly and equitably, to conduct the organization's non-CFC operations separately from the campaign operations, and to be subject to the decisions and supervision of the LFCC.

(c) The specific responsibilities of the PCFO include but are not limited to:

(1) Ensuring that no employee is in any way coerced with regard to participation in the campaign.

(2) Training employee keyworkers and volunteers in the methods of non-coercive solicitation.

(3) Honoring employee designations.

(4) Ensuring that no employee is in any way questioned as to his or her designation or its amount, other than for arithmetical inconsistencies.

(5) Preparing pledge cards and brochures that comply with these regulations.

(6) Honoring the request of employees who indicate in the box on the pledge card that their names not be released to the agency(ies) that they designate. PCFOs will include specific guidance to keyworkers during their training to inform employees that failure to check this box will result in the employee's name being forwarded to the voluntary agency(ies) at the request of that agency(ies).

(7) Submitting an extensive and thorough audit of its operations, conducted by an independent certified public accountant in accordance with generally accepted auditing standards, to the local Federal Coordinating Committee within four months of the end of the calendar year during which contributions pledged are collected.

(8) Absorbing the cost of any reprinting, embezzlement, loss of funds, or cost overrun connected with the campaign as a result of its action or inaction.

(9) Designing and implementing CFC awards programs which are accessible to all employees and which reflect at the same time the government's commitment to non-coercion in that the awards are not ostentatious or of more than nominal value, and the Government's appreciation and commitment to the CFC. Awards to Federal employees or Federal agencies by individual voluntary agencies or federations for CFC accomplishments is prohibited.

(10) Communicating to all applicants the eligibility decisions of the LFCC.

(11) Responding in a timely and appropriate manner to all inquiries from participating organizations.

(12) Producing any documents or information requested by the LFCC and/or the Director within 10 business days of the receipt of the request.

(13) Consulting with federated groups on the operation of the local campaign and providing them timely access to all reports, budgets, audits, and other records.

(d) The failure of the PCFO to perform any of these responsibilities listed in paragraph (c) of this section may be grounds for removal and disqualification by the Director to serve as PCFO for one year. The Director shall give the PCFO an opportunity to respond to any allegations of failure to perform its responsibilities. The PCFO must submit its response to the Director within 10 business days. The Director will issue a written determination based on a review of all of the information submitted.

**§950.106 PCFO Fee.**

(a) The PCFO shall recover from the gross receipts of the campaign a fee, approved by the LFCC, reflecting the actual costs of administering the local campaign. In no event shall the fee exceed by more than 10 percent the estimated budget submitted pursuant to section 950.105 of this part.

(b) The fee will be shared proportionately by all the recipient organizations reflecting their percentage share of gross campaign receipts.

**§ 950.107 Lack of Qualified PCFO.**

(a) In the absence of a PCFO, there is no authority for an LFCC to assume the duties and responsibilities of the PCFO. In the event that there is no qualified PCFO, the LFCC Chairman will inform the Director. The Director will make reasonable efforts to identify an eligible organization to function as the PCFO in the specific campaign, but failure to appoint a PCFO will require that the local CFC be cancelled under these circumstances. No workplace solicitation of any Federal employee in the campaign area is authorized and payroll allotments cannot be accepted and honored during the duration of the cancellation.

**§ 950.108 Preventing Coercive Activity.**

True voluntary giving is basic to Federal fund-raising activities. Actions that do not allow free choices or even create the appearance that employees do not have a free choice to give or not to give, or to publicize their gifts or to keep them confidential, are contrary to Federal fund-raising policy. The following activities are contrary to the intend of Federal fund-raising policy and, in the interest of preventing coercive activities in Federal fund-raising, are not permitted in the campaigns:

(a) Solicitation of employees by their supervisor or by any individual in their supervisory chain of command.

(b) Supervisory inquiries about whether the employee chose to participate or not to participate or the amount of an employee's donation. Supervisors may only be given summary information about the major units that they supervise.

(c) Setting of 100 percent participation goals.

(d) Establishing personal dollar goals and quotas.

(e) Developing and using lists of non-contributors.

(f) Providing and using contributor lists for purposes other than the routine collection and fowarding of contributions and allotments, and as allowed under section 950.601 of this part.

(g) Using as a factor in a supervisor's performance appraisal the results of the solicitation in the supervisor's unit or organization.

**§ 950.109 Avoidance of conflict of interest.**

Any Federal employee who serves on the LFCC, on the eligibility committee, or as a Federal agency fund-raising program coordinator, must not participate in any decision situations where, because of membership on the board or other similar affiliation with a voluntary agency, there could be or appear to be a conflict of interest.

**§ 950.110 Prohibited discrimination.**

Discrimination for or against any individual or group on account of race, color, religion, sex, national origin, age, handicap, or political affiliation is prohibited in all aspects of the management and the execution of the CFC. Nothing herein denies eligibility to any voluntary agency, which is otherwise eligible under this part to participate in the CFC, merely because such voluntary agency is organized by, on behalf of, or to serve persons of a particular race, color, religion, sex, national origin, age, or handicap.

## Subpart B—Eligibility Provisions

**§ 950.201 National eligibility.**

(a) In accordance with the timetable issued by the Director and pursuant to procedures established by the Director, the Director shall annually make eligibility determinations for organizations which desire to be listed in all local CFCs.

(b) The Director shall provide to all local campaigns the list of agencies that have been judged eligible to participate on a national basis. The list will be provided no later than April 30 of each year. The list shall be faithfully reproduced in all local brochures in accordance with these regulations.

**§ 950.202 National eligibility requirements.**

(a) To qualify for inclusion on the list of organizations judged eligible to participate on a national basis, an organization must submit annually to the Director:

(1) Documentary evidence that is classified as tax-exempt under 26 U.S.C. 501(c)(3) and is eligible to receive tax-deductible contributions under 26 U.S.C. section 170.

(2) Documentary evidence that it accounts for its funds in accordance with generally accepted accounting principles and was audited in accordance with generally accepted auditing standards by an independent certified public accountant in the year immediately preceding any year in which it applies for admission to, or certifies its eligibility to receive donations from, the CFC. Any organization applying for national eligibility must submit a copy of its audit report. Agencies with affiliates must provide combined or acceptably compiled financial statements prepared in accordance with generally accepted accounting principles.

(3) A separate statement demonstrating that the organization's expenses connected with lobbying and all attempts to influence voting or legislation at the local, State, or Federal level would classify it as a tax-exempt agency under 26 U.S.C. 501(h).

(4) A list demonstrating that it is directed by an active and responsible governing body whose members have no material conflict of interest and, except for a paid staff head, serve without compensation. This list shall include the telephone numbers and addresses, as

well as a statement of the directors participation in the conduct of the organization's affairs.

(5) A statement demonstrating that, if its fund-raising and administrative expenses are in excess of 25 percent of total support and revenue, its actual expense for those purposes are reasonable under all the circumstances in its case. For those agencies whose expenses are not in excess of the 25 percent limit, a statement affirming that their fund-raising and administrative costs are not in excess shall be supplied.

(i) Fund-raising costs shall include all expenses of mail that includes requests for financial support; all expenses associated with membership drives; all expenses associated with newspapers, magazines, radio, television, or other advertising.

(ii) Administrative expenses include all salaraies, all overhead expenses and all expenses associated with the conduct of the organization's internal affairs.

(6) A statement affirming that the organization's fund-raising practices protect against unauthorized use of its contributor lists, permit no payment of commissions, kickbacks, finders fees, percentages, bonuses, or overrides in connection with fund-raising, and permit no general telephone solicitations to the public.

(7) A statement affirming that its publicity and promotional activities are based upon its actual program and operations, are truthful and non-deceptive, include all material facts, and make no exaggerated or misleading claims.

(8) A statement affirming that the organization is a health and welfare organization that delivers substantive benefits to people. The statement shall detail those benefits.

(9) A statement affirming that the organization has delivered substantive benefits in at least 15 different states or a number of foreign countries or a number of areas in a single foreign country over the prior three years. A detailed description of the kind of benefits and the location of the beneficiaries shall also be included.

(10) A statement affirming that the funds contributed by Federal personnel are effectively used for the announced purpose of the voluntary agency.

(11) A statement specifying under which governmental entity the voluntary agency is organized.

(12) A statement affirming that, with the exception of a voluntary agency whose revenues are affected by unusual or emergency situations, as determined by the Director, it has received at least 50 percent of its total support and revenue from sources other than the Federal government and at least 20 percent of its total support and revenue from voluntary contributions from the general public.

(13) A statement affirming that it prepares an annual report that is made available to the general public that includes a full description of the voluntary agency's activities and supporting services in relation to its expenses and identifies its directors and chief administrative personnel.

(14) A statement in 25 words or less describing the program of the voluntary agency and a list of the titles and total compensation of the agency's three most highly compensated employees. This information will be used in the information brochure.

(b) The Director shall review these applications for accuracy and for compliance with the eligibility requirements. Failure to supply any of this information may be judged a failure to comply with the requirements for national eligibility, and the voluntary organization may be ruled ineligible for inclusion on the national list.

(c) The Director may request such additional information as the Director deems necessary to complete the eligibility reviews. An organization that fails to comply with such requests within 10 business days may be judged ineligible.

(d) The Director may waive any of these eligibility requirements upon a showing of extenuating circumstances.

**§ 950.203 Local eligibility.**

(a) The LFCC shall establish an annual eligibility process for organizations that apply to be listed in the local brochure and which have not been listed on the national eligibility list.

(b) The requirements established by the LFCC shall include all substantive requirements of the national eligibility process in § 950.202 of this part, with the following exceptions:

(1) Voluntary agencies have delivered benefits in 15 states over the prior three years,

(2) Organizations whose annual budget is less than $25,000 may submit IRS Form 990 in lieu of an audit report,

(3) The applicant voluntary agency must have a substantial presence in the geographical area covered by the local campaign or a substantial presence in the geographical area covered by a contiguous local campaign. "Substantial presence" is defined as a staffed facility available to its clientele or members of the public seeking the voluntary agency's services or benefits that it provides, and which is open at least 20 hours a week.

(c) The LFCA shall announce its eligibility decisions at an eligibility meeting and will communicate all eligibility decisions in writing to the applicant agencies within 10 business days of the decision. Applicants denied eligibility may appeal in accordance with § 950.204 of this part.

(d) No LFCA may print the local eligibility list while there are appeals from their campaign pending with the Director.

(e) No LFCC shall grant eligibility to an organization the name of which is substantially similar to the name of an organization which has been granted national eligibility.

**§ 950.204 Appeals.**

(a) *National eligibility.* Applicants denied national eligibility listing may petition the Director in writing to reconsider the denial. Such a petition for reconsideration may be dismissed as untimely unless it is received by the Director by the close of business 15 business days from the Director's initial decision. This petition shall be limited to those facts justifying reversal of the original decision.

(b) *Local eligibility.* (1) Because local applicants will have the opportunity to attend the local eligibility meeting at which time all eligibility decisions will be announced, the schedule for appealing adverse decisions is shortened. This shortened schedule does not excuse the LFCC from informing both successful and unsuccessful applicants in writing of the result of the LFCC's deliberations.

(2) Applicants denied local eligibility listing must first appeal to the LFCC in writing to reconsider its denial. Such an appeal must be received by the LFCC within the five business days immediately following the eligibility meeting. This appeal shall be limited to those facts justifying reversal of the original decision. The LFCC must consider all timely appeals within the next two business days after the expiration of the deadline for receipt of timely appeals.

(3) An applicant which is unsuccessful in its appeal to the LFCC may appeal to the Director. All appeals must be in writing. The appeal to the Director must be received by the Director within 10 business days of the LFCC's denial. The Director's decision is final for administrative purposes.

## Subpart C—Federations

### § 950.301 National Federations.

(a) Organizations with national federation status for purposes of participation in the Combined Federal Campaign are:

(1) The United Way of America (UWA),

(2) The International Service Agencies (ISA),

(3) The International Service Agencies-Overseas (ISAO),

(4) The National Voluntary Health Agencies (NVHA),

(5) The National Service Agencies (NSA), and

(6) The American Red Cross (ARC),

(b) The Director may establish additional national federations that conform to the statutory requirements in section 618 of Pub. L. 100–202. The Director may decertify a federation for up to one year if it is determined on the record that the federated group has not compiled with regulatory requirements. This determination shall be the final administrative review.

(c) By applying for inclusion in the CFC, federations consent to allow the Director or the Director's designated representative complete access to it and its members' books and records and to respond to requests for information by the Director or the Director's designee.

### § 950.302 Responsibilities of National Federations.

(a) National federations must ensure that their member organizations comply with all eligibility requirements included in these regulations, and must identify to OPM which organizations fail to meet such requirements.

(b) National federations, with the written approval of the Director, may elect to certify the eligibility of their member agencies at the national and local levels in accordance with Subpart B.

(1) LFCCs must accept the certifications of national federations, but may ask the Director to review any such certification.

(2) The Director may elect to review, accept or reject the certifications of the eligibility of the members of the national federations.

(c) A single instance of false certification at either the local or national level may constitute grounds for decertification of a national federation. The Director may elect to decertify a federation for up to one campaign year, subject to the requirement that the appellant be offered the opportunity to have a hearing on the record on the proposed decertification.

(d) The failure of a national federation to respond in a timely fashion to a request for information or cooperation in an investigation by the Director may be grounds for decertification.

(e) National federations shall file with the Director by December 1 of each year an audit of the federation's operations completed by an independent certified public accountant.

### § 950.303 Local federations.

(a) LFCCs may grant, in accordance with these regulations, local federation status to groups of 15 or more voluntary agencies.

(b) An applicant for local federation status must certify and be able to demonstrate:

(1) that all member organizations are qualified for inclusion on the local eligibility list.

(2) That it possesses the necessary financial and organizational maturity to operate as a federation.

(3) That its fund-raising and administrative expenses meet the requirements for national federations.

(4) That it does not employ the services in its CFC operations of private consultants, consulting firms, advertising agencies or similar business organizations to perform the policy-making or decision-making functions in the CFC. It may, however, contract with entities or individuals such as banks, accountants, lawyers, and other vendors of goods and/or services to assist in accomplishing its tasks.

(c) The Director may decertify any local federation at any time when such decertification is, in the Director's judgment, consistent with the best interests of the campaign.

(d) Local federations, once properly established, may certify their member voluntary agencies as eligible to be included on a local list. The LFCC may require any member agency of a local federation to supply independent evidence of its eligibility.

## Subpart D—Campaign Materials

### § 950.401 Campaign brochure.

(a) The local brochure shall, under the heading of "National Agencies", faithfully reproduce the list, descriptions, and code numbers of the nationally eligible voluntary agencies supplied by the Director.

(b) The local brochure shall list, under the heading of "Local Agencies", by federation heading, or under the heading "Unaffiliated Organizations" all organizations judged eligible by the LFCC. Each listing shall be followed by a description of the organization, not to exceed 25 words, as well as the titles and total compensation of the voluntary agency's and federation's three most highly compensated employees.

(c) All listings of voluntary agencies within a federation shall be in alphabetical order beginning with a letter selected at random by the LFCC.

(d) The position of the federations in the local list, and the position of the national federations, local federations, and the unaffiliated agencies in the local list shall be determined at random by the LFCC.

(e) Omission of an eligible voluntary agency requires that all brochures be reprinted and redistributed. The LFCC may direct that the cost of such reprinting and redistribution shall be borne by the FCFO, the eligible group, or charged to administrative expenses.

(f) Dual listing is prohibited. No voluntary agency or federation may be listed more than once on the campaign brochure. The listing of both a national voluntary agency and its local affiliate or other subunit is prohibited even if the local affiliate or other subunit applies separately for admission to the local campaign. The parent agency determines whether it or its local affiliate or other subunit will be listed. If the parent agency applies for the national list then it will be presumed that the parent agency has determined that its local affiliates and subunits will not be included in local CFCs.

(g) An employee may not make a designation to an organization not listed in the brochure. Any attempt to do so voids the employee's contribution. The PCFO will return to the employee any money received and/or ask the employee to cancel his or her allotment. An employee whose designation is voided may not be resolicited

### § 950.402 Pledge card.

(a) The Director will make available a model pledge card which must be faithfully reproduced at the local level.

(b) The Director may authorize the use of different pledge cards.

(c) The use of a pledge card other than one that faithfully reproduces the Director's design or which has been authorized by the Director is prohibited.

### § 950.403 Penalties.

(a) A PCFO's failure to comply with this Subpart of these regulations may result in either disqualification from future service as PCFO, decertification from federation status, forfeiture of all undesignated money otherwise directed to the PCFO, or all three penalties.

(b) The Director may impose any or all of these penalties.

## Subpart E—Distribution of Undesignated Funds.

### § 950.501 Applicability.

(a) This Subpart applies to all domestic area campaigns. It does not apply to the DoD Overseas Campaign.

(b) The amount of undesignated funds to which the distribution formulas described in §§ 950.502 and 950.503 of this part apply shall be the amount remaining after the PCFO's fee is deducted.

### § 950.502 Fall 1988 and 1989.

(a) For the fall 1988 and 1989 campaigns, the local United Way, ISA, NVHA, the American Red Cross, and those federations and voluntary agencies described in § 950.503(a)(4) of this part shall be allocated the same average dollar amount from undesignated funds as each received in the fall 1985 and 1986 local campaigns, except that:

(1) If there are not enough undesignated funds for the local UW, ISA, NVHA, the American Red Cross, and those federations and voluntary agencies described in § 950.503(a)(4) of this part to receive the same average dollar amount each received in the fall 1985 and 1986 local campaigns, then the shortfall shall be shared proportionally by them; or

(2) If undesignated funds exceed the total of the average dollar amounts, then the excess shall be allocated in the following manner:

(i) The excess shall be added proportionally to the average dollar amounts of ISA, NVHA, and those federations and voluntary agencies described in § 950.503(a)(4), so that:

(A) ISA and NVHA each receive an amount of up to 7 percent of the average of all undesignated funds for the fall 1985 and 1986 local campaigns; and

(B) Those federations and voluntary agencies described in § 950.503(a)(4) of this part receive an amount to be allocated by the LFCC among them of up to 4 percent of the average of all undesignated funds for the fall 1985 and 1986 local campaigns.

(ii) Any undesignated funds remaining after the distribution described in paragraph (a)(2)(i) of this section shall be distributed in accordance with the formula described in § 950.503 of this part.

(b) Each LFCC shall determine the average dollar amount of undesignated funds received in its fall 1985 and 1986 local campaigns by the local United Way, ISA, NVHA, the American Red Cross, and those federations and voluntary agencies described in § 950.503(a)(4) of this part, by adding the dollar amounts of the undesignated funds each received in those campaigns and dividing each recipient's total by two.

### § 950.503 Fall 1990 and thereafter.

(a) For the fall 1990 campaign, all undesignated funds received in a local campaign shall be allocated as follows:

(1) 82 percent shall be allocated to the local United Way;

(2) 7 percent shall be allocated to ISA;

(3) 7 percent shall be allocated to NVHA; and

(4) 4 percent shall, after fair and careful consideration of all eligible federated groups and agencies, be allocated by the LFCC among any or all of the following:

(i) National federated groups, other than the local UW, ISA, NVHA, except that a national federated group shall not be eligible unless:

(A) There are at least 15 member agencies of such group participating in the local campaign,

(B) The members of such group collectively receive at least 4 percent of the designated contributions in the local CFC,

(C) Such group was granted national eligibility status for the fall 1988, 1989, or 1990 CFC;

(ii) Local federated groups;

(iii) Any local non-affiliated voluntary agency that received at least 4 percent of the designated contributions.

(b) In those campaigns that have no local United Way, the LFCC will distribute what would have been the local UW share of the undesignated funds in a fair and equitable manner that is reflective of the needs of the community. NVHA and ISA shall not receive more than 7 percent each of these funds.

(c) Based on the experience gained in the fall 1988, 1989, and 1990 CFCs, the Director may adjust the formula described in paragraph (a) of this section. In so doing, the Director shall give appropriate weight to the preferences of the Federal donors.

(d) The formula for distributing undesignated funds after the 1990 campaign shall be the one described in §§ 950.503 (a) and (b), unless the formula is adjusted by the Director.

### § 950.504 Review by the Director.

The Director may alter an LFCC's distribution of undesignated funds:

(a) To revise any allocation to ineligible organizations; or

(b) To enforce the distribution formulas described in §§ 950.502 and 950.503 of this part.

## Subpart F—Miscellaneous Provisions

### § 950.601 Release of contributor names.

(a) The pledge card will contain a box for an employee to check if the employee does not wish his or her name and agency forwarded to the charitable agency or agencies designated. Failure to honor this request may be grounds for decertifying the PCFO.

(b) An employee who elects to have his or her name forwarded to the voluntary agency that the employee designates will complete a form, attached to the pledge card, to be forwarded to the voluntary agency at the request of the agency. If it is not requested within one month of the end of the campaign the address form will be destroyed.

(c) It is the responsibility of the PCFO to forward the names and addresses of these employees to the recipient organization. The PCFO may not use the information provided by the employees, and may not retain copies of the forms for longer than one month. The names, if requested, must be forwarded within one month of the close of the campaign.

(d) Recipient organizations that receive the names and addresses of employees must segregate this information from all other lists of contributors. The segregated list may not be sold or in any way released to anyone outside of the organization. Failure to protect the integrity of this information may result in permanent expulsion from the CFC.

(e) Organizations must cooperate fully with OPM investigations into the care and appropriate use of these lists. Failure to cooperate may result in permanent expulsion from the CFC.

### § 950.602 Solicitation methods.

(a) Employee solicitations shall be conducted during duty hours using methods that permit true voluntary giving and shall reserve to the individual the option of disclosing any gift or keeping it confidential. Raffles, lotteries, bake sales, carnivals, athletic events, or other fund-raising activities not specifically provided for in these regulations are strictly prohibited.

## Subpart G—DoD Overseas Campaign

### § 950.701 DoD Overseas Campaign.

(a) A Combined Federal Campaign is authorized for all Department of Defense activities in the overseas areas during a six-week period in the fall. Organizations that may participate in the Overseas Campaign will consist of:

(1) All organizations found nationally eligible by OPM.

(2) The American Red Cross.
(3) The United States Organizations.
(b) The DoD may select any organization or combination of organizations to serve as PCFO as it deems in the best interests of the overseas campaign.
(c) Federal civilian agencies with overseas personnel may elect to have these employees participate in the DoD campaign or in the National Capital Area campaign.
(d) On-base morale, welfare, and recreational activities may be supported from CFC funds.
(e) The distribution of undesignated funds shall be controlled by the determination of the organization or organizations serving as PCFO.

## Subpart H—CFC Timetable

### § 950.801 Campaign schedule.

(a) The Combined Federal Campaign after 1988 will be conducted according to this timetable.
(1) For one month between January and March, as determined by the Director, OPM will accept applications from organizations seeking national eligibility.
(2) Within one month of the closing of the receipt of applications, the Director will issue an initial list of organizations accorded national eligibility.
(3) Organizations appealing a national eligibility denial may petition for reconsideration within 15 business days of the initial decision.
(4) Local Federal Coordinating Committees must select a PCFO not later than March 15.
(5) The Director will issue a national eligiblity list to all local campaigns one month after the deadline for the receipt of reconsideration petitions.
(6) Local Federal Coordinating Committees must accept applications from organizations seeking local eligiblity for one month, and must render eligibility decisions at a public meeting advertised in the local media not later than two weeks after the deadline for receipt of applications.
(7) The appeals process described in § 950.204 of this part will be followed.
(b) The Director will annually issue a timetable for conducting eligibility hearings and processing appeals.

## Subpart I—Payroll Withholding

### § 950.901 Payroll allotment.

The policies and procedures in this section are authorized for payroll withholding operations in accordance with the Office of Personnel Management Pay Administration regulations in Part 550 of this chapter.

(a) *Applicability.* Voluntary payroll allotments will be authorized by all Federal departments and agencies for payment of charitable contributions to local CFC organizations.
(b) *Allotters.* The allotment privilege will be made available to Federal personnel as follows:
(1) Employees whose net pay regularly is sufficient to cover the allotment are eligible. An employee serving under an appointment limited to one year or less may make an allotment to a CFC when an appropriate official of the employing Federal agency determines that the employee will continue employment for a period to justify an allotment. This includes part-time and intermittent employees who are regularly employed.
(2) Members of the Uniformed Services are eligible, excluding those on only short-term assignment (less than three months).
(c) *Authorization.* (1) Allotments will be totally voluntary and will be based upon contributor's individual authorizations.
(2) Authorization forms in conformance with the model provided by the Director may be printed or purchased from a central source by each PCFO. These forms and other campaign materials will be distributed to employees when charitable contributions are solicited.
(3) Completed payroll withholding authorization forms should be transmitted to the contributor's servicing payroll office as promptly as possible, preferably by December 15. However, if forms are received after that date they should be accepted and processed by the payroll office.
(d) *Duration.* Authorizations will be in the form of a term allotment for one full year—26, 24, or 12 pay periods depending on the allotter's pay schedule—starting with the first pay period beginning in January and ending with the last pay period that begins in December. Three months of employment is considered the minimum amount of time that is reasonable for establishing an allotment.
(e) *Amount.* (1) Allotters will make a single allotment that is apportioned into equal amounts for deductions each pay period during the year.
(2) The minimum amount of the allotment will be determined by the LFCC but will not be less than $1 per payday, with no retriction on the size of the increment above that minimum.
(3) No change of amount will be authorized during the term of an allotment.
(4) No deduction will be made for any period in which the alloter's net pay, after all legal and previously authorized deductions, is insufficient to cover the CFC allotment. No adjustment will be made in subsequent periods to make up for the missed deductions.
(f) *Remittance.* (1) One check will be sent by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations, to the Central Receipt and Accounting Point (CRP) at each location for which the payroll office has received allotment authorizations. The Director will provide a list of the authorized CRPs to Federal payroll offices.
(2) The check will be accompanied by a statement identifying the agency and the number of employee deductions. There will be no listing of allotters included or of allotter discontinuances.
(g) *Discontinuance.* (1) Allotments will be discontinued automatically:
(i) On expiration of the one year withholding period; or
(ii) On the death, retirement, or separation of the allotter from the federal service, whichever is earlier.
(2) The allotter may revoke the authorization at any time by requesting it in writing from the payroll office. Discontinuance will be effective the first pay period beginning after receipt of the written revocation in the payroll office.
(3) A discontinued allotment will not be reinstated.
(h) *Transfer.* (1) When an allotter moves to another organizational unit served by a different payroll office in the same CFC location, whether in the same office or a different Department or agency, his or her allotment authorization will be transferred to the new payroll office.
(2) When the allotter moves to a location not covered by a CFC, the allotment will automatically be terminated.
(i) *Accounting.* (1) Federal payroll offices will oversee the establishment of individual allotment accounts, the deductions each pay period, and the reconciliation of employee accounts in accordance with agency and General Accounting Office requirements. The payroll office will accept responsibility for the accuracy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements.
(2) The PCFO is responsible for the accuracy of disbursements it transmits to recipients. It shall transmit at least monthly for campaigns of $500,000 or more or quarterly if less than that amount, minus only the approved proportionate share for administrative cost reimbursement. It shall remit the

contributions to each agency or to the federated group, if any, of which the agency is a member if all member agencies of that federated group participating in the local campaign agree. The PCFO shall notify the federated groups, national agencies, and local agencies as soon as practicable after the completion of the campaign, but in no case not later than 60 days thereafter, of the amounts, if any, designated to them and their member agencies and of the amounts of the undesignated funds, if any, allocated to them.

(3) Federated and national voluntary agencies, or their designated agents, will accept responsibility for:

(i) The accuracy of distribution among the voluntary agencies of remittances from the PCFO; and

(ii) Arrangements for an independent audit conducted by a certified public accountant agreed upon by the participating voluntary agencies.

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 58

### Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Proposed Increase in Fees and Other Administrative Changes

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service proposes to increase the fees charged for services provided under the dairy inspection and grading program. The program is a voluntary one and all costs are covered by user fees. The higher fees, including an increase in the current base rate of $19.00 to $33.00 per hour, reflect the increase in program costs that has occurred since the fees were last adjusted in November 1977.

Other proposed changes in the program's regulations would: (1) Permit the Department to reject an application for grading service if any fee payments by the applicant for prior services are more than 30 days overdue, rather than 60 days as now; (2) delete the requirement of a surety bond for certain prospective industry licensees; (3) modify the list of individual tests in the laboratory analysis schedule for which there are charges; (4) increase the charges made for such laboratory analysis; (5) delete the charge to applicants of an administrative charge equal to an additional 10 percent of actual travel expenses; and (6) establish the same hourly rate charge for the "assistant" inspector or grader in resident programs as for the head inspector or grader.

**DATE:** Comments due March 18, 1988.

**ADDRESS:** Comments should be sent to: USDA/AMS/Dairy Division, Office of the Director, Room 2968-S, P.O. Box 96456, Washington, DC 20090-6456.

**FOR FURTHER INFORMATION CONTACT:** Lynn G. Boerger, USDA/AMS/Dairy Division, Dairy Grading Section, Room 2750-S, P.O. Box 96456, Washington, DC 20090-6456, (202) 382-9381.

**SUPPLEMENTARY INFORMATION:** This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified a "non-major" rule under the criteria contained therein.

This proposed rule has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Administrator, Agricultural Marketing Service, has determined that if promulgated it would not have a significant economic impact on a substantial number of small entities. The Agricultural Marketing Service estimates that overall this rule would yield an additional two million dollars per year over current fees. We do not believe the increases proposed would affect competition. Furthermore, the dairy grading program is a voluntary program.

This document proposed the following changes in the regulations implementing the dairy inspection and grading program:

1. Increase the fees for grading and other program services.

The current fees for program services have been in effect for 10 years (since November 1977). During the early 1980's requests for services increased significantly due to increases in milk production. While program expenses did increase, revenues increased at a higher rate. Accordingly, the program began accumulating increased operating reserves. During those years, it was necessary for all personnel qualified to carry out grading and inspection work (including many supervisors) to be fully occupied with revenue-producing work. By the end of fiscal year 1983, the program had accumulated a reserve of $6.2 million—sufficient revenue to cover nine months of operating expenses.

More recently, the volume of grading work has been declining, with an accompanying decline in revenue. At the same time, operating costs have continued to increase due to inflation and increases in salaries, travel reimbursements, and other administrative and supervisory costs. Fees remained unchanged and the reserve was reduced. In fiscal years 1984 through 1987, the program's financial reserves have been reduced by about $4 million (with annual operating deficits of up to $2.3 million). At the end of fiscal year 1987, the reserve was $2.1 million—less than the 4 months of operating reserves (about $3 million) that are considered appropriate for the program.

We project that operating costs will continue to increase in 1988. In addition, we have identified three vital areas that require improvement and added resources—training, supervision and automation.

The workload decrease that began in 1986 and continued into 1987 stemmed from the Dairy Termination Program and the resulting decline in Government purchases of dairy products under the price support program. The workload for 1988 will probably be similar to that of 1987. This will result in a potential reduction in revenue.

For all of the above reasons, a fee increase is imperative. Without the proposed increases, the program is expected to lose more than $2 million during fiscal year 1988, which would deplete its operating reserve.

The proposed fee increases (ranging from 18 percent to 74 percent above the current rates) are considerably lower than the 86 percent increase in the Consumer Price Index that occurred during the 10-year period (1977 to 1987) in which grading fees remained unchanged.

2. Redefine when service may be rejected due to late payment.

The grading program regulations now state that "an application for inspection or grading service may be rejected by the Administrator when payment of fees is delinquent over 60 days." Current good commercial practice for billing and collection classifies payments not made within 30 days of billing as delinquent. This proposed rule would permit the Department to reject an application for grading service if any fee payments by the applicant are more than 30 days overdue. The proposed change would encourage the timely payment of fees.

3. Delete the requirement of bonding industry personnel involved in USDA grade label programs.

Current regulations require a surety bond from prospective licensees who are not Federal or State employees and

who are not under immediate USDA resident grader supervision. In the dairy grading program, this requirement applies to those plant employees who had been selected as supervisors of packaging for USDA grade labeled products. A recent review of the administration of the program has shown that the surety bond appears to be an unnecessary requirement. No claims have been made by the Department against existing bonds for violations by licensed and bonded plant employees in the performance of their duties. This proposed rule would eliminate the surety bond requirement for plant employees.

4. Delete laboratory fees for tests which are no longer provided by the Dairy Division. Add laboratory fees for new tests that are available.

In addition to the increase in fees for each of the listed laboratory tests, four changes are proposed to reflect current Dairy Division activities.

(a) The test for "Corn-Soya-Milk" would be deleted because the authority for the sampling and testing of this product was transferred to the Federal Grain Inspection Service on October 6, 1983.

(b) "Meat and Related Products" would be added to properly identify the specific tests that the Dairy Division is performing for the Agency's Livestock and Seed Division.

(c) A fee for antibiotic testing would be added for dry milk and related products.

(d) A fee for testing process cheese for meltability would be added for cheese and related products. This test is required by the Department's Agricultural Stabilization and Conservation Service for cheese-conversion and direct-purchase contracts for pasteurized process cheese.

5. Change the method for determining travel expenses.

The current regulations provide that, in addition to travel costs, per diem and other expenses, applicants be charged an additional 10 percent of those expenses "to cover administrative costs of AMS". The proposed fee increases include administrative and supervisory costs associated with the program. Therefore, the additional 10 percent charges are no longer necessary. This proposed rule would eliminate the additional 10 percent requirement.

6. Change the method for calculating the rate for determining continuous resident service.

Current regulations provide a two-tiered rate schedule for the inspector or grader in charge of a resident program and an assistant inspector or grader. Current operational costs do not justify a lower charge for the assistant as now provided in the regulations. This proposed rule would establish the same charge for any assistant resident inspector or grader as for the head inspector or grader.

7. Miscellaneous non-substantive changes are proposed for clarity in several of the provisions.

### Information Collection Requirements and Record-keeping

Information collection requirements and the record-keeping provision contained in 7 CFR Part 58, Subpart A, have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35, and have been assigned OMB No. 0581-0126.

All written submissions made pursuant to this notice will be available for public inspection at the Dairy Division, Agricultural Marketing Service, USDA, Washington, DC, during regular business hours.

### List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 58, Subpart A be amended as follows:

## PART 58—[AMENDED]

## Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products

1. The authority citation for Part 58 continues to read as follows:

**Authority:** Secs. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627, unless otherwise noted.

2. Section 58.12 is amended by revising paragraph (h) to read as follows:

**§ 58.12 When application may be rejected.**

* * * * *

(h) when payment of fees is delinquent over 30 days; or

* * * * *

3. Section 58.33 is revised to read as follows:

**§ 58.33 Who may be licensed.**

Any person possessing proper qualifications, as determined by an examination for competency, held at such time and in such manner as may be prescribed by the Administrator, may be licensed to perform specified inspection or grading service. Each license issued shall be signed by the Administrator.

4. Section 58.42 is revised to read as follows:

**§ 58.42 Travel expenses and other charges.**

Charges shall be made to cover the cost of travel and other expenses incurred by AMS in connection with the performance of any inspection or grading service.

5. Section 58.43 is revised to read as follows:

**§ 58.43 Fees for inspection, grading, and sampling.**

Except as otherwise provided in this section and §§ 58.38 through 58.47, charges shall be made for inspection, grading, and sampling service at the hourly rate of $33.00 for service performed between 6 a.m. and 6 p.m., and $36.40 for service performed between 6 p.m. and 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

6. Section 58.44 is revised to read as follows:

**§ 58.44 Fees for laboratory analysis.**

Except as otherwise provided in this section and § 58.45, charges shall be made for laboratory analysis at the hourly rate of $24.00 for the time required to perform the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued. The following minimum rates per test, which are based on the average time required to perform the test specified, shall apply unless the actual time required to perform the testi is greater than the minimum set forth:

(a) Dry milk and related products:

| | |
|---|---|
| Total fat (either extraction) | $4.35 |
| Moisture | 3.35 |
| Titratable acidity | 1.65 |
| Solubility index | 2.25 |
| Scorched particles | 2.25 |
| Bacterial plate count | 4.35 |
| Bacterial direct microscopic count | 6.50 |
| Flavor | 1.15 |
| Whey protein nitrogen | 10.95 |
| Vitamin A | 21.70 |
| Alkalinity of ash | 24.00 |
| Dispersibility | 10.95 |
| Coliform (solid media) | 4.35 |
| Salmonella | 24.00 |
| Phosphatase | 24.00 |
| Oxygen | 13.00 |
| Density | 1.65 |
| Antibotic | 8.05 |

(b) Condensed milk and related products:

| | |
|---|---|
| Fat (fat extraction) | $6.50 |
| Total solids | 4.35 |
| Sugar (sucrose) | 24.00 |
| Net weight (per can) | 2.65 |
| Flavor, color, body, texture | 1.65 |

(c) Cheese and related products:

| | |
|---|---|
| Moisture | $4.35 |
| Moisture in duplicate | 6.50 |
| Total fat (either extraction) | 7.65 |
| Moisture and fat (dry basis) complete | 12.00 |
| Meltability (Process cheese) | 4.35 |

(d) Butter and related products:

| | |
|---|---|
| Moisture | $4.35 |
| Fat | 6.65 |
| Salt | 4.35 |
| Complete Kohman analysis | 13.00 |
| Fat and moisture (same sample) | 10.95 |
| Flavor, odor, body, texture | 2.25 |
| Peroxide value | 24.00 |
| Free fatty acid | 10.95 |
| Yeast and mold | 5.50 |
| Proteolytic count | 5.50 |

(e) Meat and related products:

| | |
|---|---|
| Fat (hamburger) | $11.25 |

7. Section 58.45 is revised to read as follows:

**§ 58.45 Fees for continuous resident service.**

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of $24.00/hour for services performed during the assigned tour of duty. Charges for service performed in excess of the assigned tours of duty shall be made at a rate of 1½ times the rate stated in this section.

8. Section 58.47 is revised to read as follows:

**§ 58.47 Fees for continuous nonresident service.**

Irrespective of the fees in §§ 58.39, 58.42 and 58.43, charges for continuous nonresident service shall be made at the hourly rate of $36.00 for services performed between 6 a.m. and 6 p.m., and $39.40 for services performed between 6 p.m. and 6 a.m., for the number of hours each inspector or grader is assigned, including the travel time at the beginning and end of the period. Travel expenses are included in the hourly rates. The charge for holiday, Saturday or Sunday work or overtime (work in excess of each eight-hour shift Monday through Friday) shall be at $52.50 per hour.

Signed at Washington, DC, on: February 11, 1988.

**James P. Boyle,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 88-3341 Filed 2-16-88; 8:45 am]

BILLING CODE 3410-02-M

**7 CFR Part 927**

## Winter Pears Grown in Oregon, Washington, and California; Proposed Increase in Expenses for 1987-88 Fiscal Period

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would authorize an increase in expenditures for the Winter Pear Control Committee established under Marketing Order 927 for the 1987-88 fiscal year. The expenses would be increased from $3,396,563 to $3,816,563. The $420,000 increase is necessary to expand market development and promotion activities to be undertaken by the committee in marketing the record large 1987 crop.

**DATES:** Comments must be received by February 29, 1988.

**ADDRESS:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085-S, Washington, DC 20090-6456. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Jerry N. Brown, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone 202-475-5464.

**SUPPLEMENTARY INFORMATION:** This rule is proposed under Marketing Order No. 927 (7 CFR Part 927) regulating the handling of winter pears grown in Oregon, Washington, and California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 88 handlers of Oregon, Washington, and California winter pears subject to regulation under this marketing order, and approximately 1,800 winter pear producers in these three states. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less classified as small entities.

A final rule establishing expenses in the amount of $3,396,563 for the Winter Pear Control Committee for the fiscal period ending June 30, 1988, was published in the **Federal Register** on October 30, 1987 [52 FR 41697]. That action also fixed assessment rates to be levied on winter pear handlers during the 1987-88 fiscal period. In a recently conducted mail ballot, the Winter Pear Control Committee voted unanimously to increase its budget of expenses from $3,396,563 to $3,816,563. The $420,000 increase would cover expanded market development and promotion activities deemed necessary to market the record large 1987 winter pear crop.

No change in assessment rates was recommended by the committee. Because of the larger than expected crop, adequate funds are available to cover the proposed increase in expenses that may result from this action.

Therefore, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget increase approval needs to be expedited. The committee needs to have authority to pay its expenses which are incurred on a continuous basis.

**List of Subjects in 7 CFR Part 927**

Marketing agreement and order, Winter pears, Oregon, Washington, California.

For the reasons set forth in the preamble, it is proposed that § 927.227 be amended as follows:

## PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

1. The authority citation for 7 CFR Part 927 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

**§ 927.227 [Amended]**

2. Section 927.227 is amended as follows:

Section 927.227 is amended by changing "$3,396,563" to "$3,816,563."

Dated: February 10, 1988.

**Robert C. Keeney,**

*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 87–3305 Filed 2–16–88; 8:45 am]

BILLING CODE 3410–02–M

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 615

### Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Capital Adequacy of Farm Credit System Institutions

**AGENCY:** Farm Credit Administration.

**ACTION:** Advance Notice of Proposed Rulemaking.

**SUMMARY:** Notice is hereby given that the Farm Credit Administration (FCA) intends to develop regulations that establish minimum capital adequacy standards under section 4.3(a) of the Farm Credit Act of 1971, as required by section 301 of the Agricultural Credit Act of 1987 (Pub. L. 100–233) (1987 Act). The FCA previously issued for public comment proposed regulations for capital adequacy and minimum capital requirements on July 23, 1986 (51 FR 26402), and capital adequacy related regulations on October 27, 1986 (51 FR 36824). The substantial changes made to the Farm Credit Act of 1971 by the 1987 Act requires the FCA to alter the approach to regulating Farm Credit System (System) capital embodied in those proposed regulations. Accordingly, the FCA is requesting comment on possible approaches the FCA Board should consider in issuing proposed capital adequacy regulations.

**DATE:** Comments should be received on or before March 1, 1988.

**ADDRESS:** Submit any comments in writing (in triplicate) to Anne E. Dewey, General Counsel, Farm Credit Administration, McLean, VA 22102–5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

**FOR FURTHER INFORMATION CONTACT:**

William G. Dunn, Chief, Financial Analysis and Standards Division, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4402

or

Dorothy J. Acosta, Senior Attorney, Office of General Counsel, McLean, Virginia 22102–5090, (703) 883–4000

**SUPPLEMENTARY INFORMATION:** Section 4.3(a) of the Farm Credit Act of 1971 (1971 Act), codified at 12 U.S.C. 2154, authorizes the FCA to establish such minimum levels of capital for System institutions as it shall deem necessary or appropriate in light of the particular circumstances of the System institution. Section 301 and other provisions of the 1987 Act substantially alters the nature of capital stock issued to member-borrowers and gives System institutions greater flexibility in determining their capital structure and the methods by which they will increase capital. The institutions are also given greater control over the payment of dividends and distribution of earnings, provided the institutions meet minimum capital adequacy standards established by the FCA.

In addition, the 1987 Act makes a distinction between "permanent capital" and capital that is either not at risk or can be retired by the holder upon repayment of the loan or otherwise at the discretion of the borrower. The FCA is required within 120 days of the January 6, 1988 enactment to issue regulations under Section 4.3(a) of the Farm Credit Act of 1971, 12 U.S.C. 2154(a), that establish minimum permanent capital adequacy standards for System institutions.

The 1987 Act adds a new Section 4.3A, which defines permanent capital as " * * * current year retained earnings, allocated and unallocated earnings, all surplus (less allowance for losses), and stock issued by System institutions, except stock that—

(A) May be retired by the holder thereof on payment of the holder's loan, or otherwise at the option or request of the holder; or

(B) Is protected under Section 4.9B [probably intended to refer to 4.9A] or is otherwise not at risk."

The capital standards must specify fixed ratios of permanent capital to assets taking into consideration relative risk factors. Additionally, capital must be computed using financial statements prepared in accordance with generally accepted accounting principles.

### Purpose of Capital

The FCA believes that institutions must maintain capital sufficient to protect investors, minimize the risk of insolvency, and provide for current and future needs. Some risks are predictable and recurring, for example, loan losses. These risks can be estimated and provided for on the balance sheet through sufficient loan loss allowances or reserves. However, capital must also be sufficient to protect against other financial and economic risks. Concentrated single-industry lending, especially in fixed geographic territories, is inherently riskier than diversified multi-industry, multi-product lending. In addition, most System institutions carry proportionately more risk assets (particularly loans) on their balance sheets than do more diversified financial institutions. As a result the agency intends to propose standards for System institutions' permanent capital which, on a comparable basis, are likely to be higher than standards set or proposed for those more diversified financial institutions.

The FCA is presently considering whether one capital adequacy ratio should apply to all System institutions or whether different ratios should be established for different System institutions. Should different standards be decided upon, such standards would be set proportionate to the different levels of risk inherent in the operations of different institutions (for example, one could argue that more diversified banks for cooperatives may have lower capital requirements than production credit associations).

Any standard chosen is expected to be applied on the basis of daily average balances of the relevant accounts for each calendar quarter.

### Capital Adequacy Measures

The 1987 Act requires that the capital adequacy standards both specify fixed ratios of capital to assets, and take into consideration relative risk factors. In developing capital adequacy regulations, the FCA is considering adoption of a risk-based capital program similar to that recently proposed by the other Federal financial regulators, but modified to reflect the relative risk factors inherent in the System institution, and the unique nature of permanent capital, as defined by the 1987 Act.

Under this approach, each distinct type of asset would be categorized by the degree of risk inherent in the asset. Each category would be assigned a weight ranging from 0 to 100 percent and

the weight would determine the relative amount of capitalization required for the asset. For example, cash would be assigned the lowest risk category. Loans expose an institution to relatively greater risk and would therefore be assigned to a higher risk category. Assets assigned a weight of 0 would not require capitalization. Assets assigned a weight of 100 would require full capitalization at the specified fixed ratio level.

The risks incurred by a financial institution include certain types of off balance sheet items that require capital support. The FCA believes that contingent liabilities that could affect risk or which represent actual risk taken should be supported by capital. Such items might include undisbursed commitments, loss-sharing guarantees, letters of credit, and similar obligations. The FCA intends to propose individual weight categories for each such item.

**Phase-In Period**

The FCA is required to phase in the standards over a 5-year period. The FCA intends to propose interim target ratios which will be greater each year until the fifth year, when the minimum standards must be met. However until the fifth year minimum capital adequacy standards are met, the FCA intends to prohibit institutions from taking any of the actions set forth in Section 4.3A(d)(1) of the amended act that could result in a reduction of capital. For taxable institutions, the prohibition would not extend to certain minimum payments of noncash patronage refunds or cash distributions required by the Internal Revenue Code to qualify as a deductible patronage refund—provided the remaining portion of the refund paid qualifies as permanent capital.

The FCA is considering proposing that, during the phase-in period, each institution be required to develop and implement long- and short-term financial and operating plans which show how they plan to met both the interim targets and the final minimum capital adequacy standards. The adequacy of the plans and the institution's performance in meeting the plans would be subject to examination and supervision.

**Treatment of Equities**

The 1987 Act treats allocated equities differently in different System institutions. To the extent that these equities are at risk, they may be treated as permanent capital. However, for equities that will be paid to borrowers in accordance with revolvement policies that entitle the shareholder to a specific payout at a specific time, the FCA is considering eliminating such equities from consideration as permanent capital.

The regulation contemplated would recognize each dollar of permanent capital as suport for risk in only one institution. The use of "double duty" dollars as capital support to two different System institutions would be eliminated. Such funds would be counted as capital where the primary risk to those funds is recognized.

**Other Related Regulations**

The FCA may propose other related regulations and amendments to, or deletions of, existing related regulations that may be inconsistent with the capitalization provisions of the 1987 Act and such capital adequacy regulations as may be adopted under Section 4.3(a) of the 1971 Act.

The FCA invites comment on these issues and any other issues related to capital adequacy. The FCA also requests comment concerning whether a public hearing would contribute to the agency's consideration of the issues involved in these regulations and, if so, what particular issues should be addressed at the hearing.

Dated: February 10, 1988.

**David A. Hill,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 88-3319 Filed 2-16-88; 8:45 am]

BILLING CODE 6705-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 21 CFR Parts 193 and 561

**[OPP-300179; FRL 3330-3]**

### Proposed Revocation of Food Additive Regulations for Certain Pesticide Chemicals

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes the revocation of human food additive regulations in 21 CFR Part 193 and animal feed additive regulations in 21 CFR Part 561 related to certain pesticide chemicals. EPA is initiating this action to remove obsolete and expired residue limitations resulting from use of the specific pesticide under the authorization of an experimental use permit.

**DATE:** Written comments, identified by the document control number [OPP-300179], must be received on or before March 18, 1988.

**ADDRESS:** By mail, submit comments to:

Information Services Section,
Program Management and Support Division (TS-757C),
Office of Pesticide Programs,
Environmental Protection Agency,
401 M St., SW.,
Washington, DC 20460.

In person, deliver comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By Mail:

Patricia Critchlow,
Registration Division (TS-767C),
Environmental Protection Agency,
401 M St., SW.,
Washington, DC 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703)-557-1806.

**SUPPLEMENTARY INFORMATION:** EPA established certain food additive regulations in 21 CFR Parts 193 and 561 for residues of the pesticides enumerated below in processed food commodities in accordance with the provisions of experimental use permits (EUP's) which have since expired. Because the EUP's have expired, the related food additive regulations are obsolete and, for all intents and purposes, have also expired, whether or not an expiration date is specified in the regulation.

The various pesticides for which these regulations were established have not been authorized since 1985 for use under EUP's on the subject processed food commodities or on the raw agricultural commodities from which the food commodities are processed, and there is no longer any expectation of residues occurring in the processed food products from the EUP use. Thus, the existing food additive regulations are no longer

necessary and should be deleted from 21 CFR Parts 193 and 561.

Therefore, the Agency is proposing to revoke all or part of the food additive regulations for certain pesticide chemicals as follows:

*In Part 193:*

Sec.
193.70 (2-Chloroethyl)trimethylammonium chloride
193.85 Chlorpyrifos
193.100 2,4-D
193.145 3,5-Dimethyl-4-(methylthio) phenyl methylcarbamate
193.215 Fenthion
193.219 Fluridone
193.235 Glyphosate
193.284 Methanearsonic acid
193.301 2-(1-Methylethoxy)phenol methylcarbamate
193.400 Simazine
193.415 Tebuthiuron

*In Part 561:*

561.20 Acephate
561.55 Butachlor
561.90 (2-Chloroethyl)trimethylammonium chloride
561.98 Chlorpyrifos
561.175 3,5-Dimethyl-4-(methylthio) phenyl methylcarbamate
561.195 Amitraz
561.231 *O*-Ethyl *S,S*-diphenyl phosphorodithioate
561.237 Fenthion
561.253 Glyphosate
561.265 Linuron
561.280 Methanearsonic acid
561.281 2-(1-Methylethoxy)phenol methylcarbamate
561.320 Procyazine
561.330 Propargite
561.371 Tebuthiuron
561.380 Thiabendazole
561.395 Tricyclazole

Interested persons are invited to submit written comments on this proposal to revoke certain tolerances or regulations in 21 CFR Parts 193 and 561. Comments must bear a notation indicating the document control number, [OPP–300179]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

**Regulatory Flexibility Act and Executive Order 12291**

Since this regulatory action is intended only to remove obsolete and unnecessary information from the Code of Federal Regulations, it has been determined that this proposed rule is not subject to review under Executive Order 12291. Likewise, this proposed regulation does not require a regulatory impact analysis under the Regulatory Flexibility Act.

**List of Subjects in 21 CFR Parts 193 and 561**

Food additives, Animal feeds, Pesticides and pests, Recordkeeping and reporting requirements.

Dated: February 8, 1988.

**Edwin F. Tinsworth,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that 21 CFR Parts 193 and 561 be amended as follows:

## PART 193—[AMENDED]

1. In Part 193:

a. The authority citation for Part 193 continues to read as follows:

**Authority:** 21 U.S.C. 348.

**§§ 193.70, 193.145, 193.215, 193.219, 193.284, 193.301, and 193.415 [Removed]**

b. By removing §§ 193.70, 193.145, 193.215, 193.219, 193.284, 193.301, and 193.415.

**§ 193.235 [Amended]**

c. By removing and reserving paragraph (b) in § 193.235.

**§ 193.85 [Amended]**

d. By removing pararaph (c) in § 193.85.

e. By revising § 193.100 to read as follows:

**§ 193.100 2,4-D.**

(a) Tolerances are established for residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) as follows:

(1) 5 ppm in sugarcane molasses, resulting from application of the herbicide to sugarcane fields.

(2) 2 ppm in the milled fractions (except flour) derived from barley, oats, rye, and wheat to be ingested as food or to be converted to food. Such residues may be present therein only as a result of application to the growing crop of the herbicides identified in 40 CFR 180.142.

(3) 0.1 ppm (negligible residue) in potable water. Such residues may be present therein only:

(i) As a result of the application of the dimethylamine salt of 2,4-D to irrigation ditch banks in the Western United States in programs of the Bureau of Reclamation; cooperating water user organizations; the Bureau of Sport Fisheries, U.S. Department of the Interior; Agricultural Research Service, U.S. Department of Agriculture; and the Corps of Engineers, U.S. Department of Defense.

(ii) As a result of the application of the dimethylamine salt of 2,4-D for water hyacinth control in ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers, and streams that are quiescent or slow moving, in programs of the Corps of Engineers or other Federal, State, or local public agencies.

(iii) As a result of application of its dimethylamine salt or its butoxyethanol ester for Eurasian watermilfoil control in programs conducted by the Tennessee Valley Authority in dams and reservoirs of the TVA system.

(b) [Reserved]

f. By revising § 193.400 to read as follows:

**§ 193.400 Simazine.**

(a) Tolerances are established for residues of the herbicide simazine (2-chloro-4,6-bis(ethylamino)-*s*-triazine) or simazine and its metabolites 2-amino-4-chloro-6-ethlamino-*s*-triazine and 2,4-diamino-6-chloro-*s*-triazine as follows:

(1) 1 ppm for residues of simazine in sugarcane byproducts (molasses and sirup), resulting from application of the herbicide to the growing crop sugarcane.

(2) 0.01 ppm for combined residues of simazine and its metabolites (2-amino-4-chloro-6-ethylamino-*s*-triazine and 2,4-diamino-6-chloro-*s*-triazine) in potable water when present therein as a result of application of the herbicide to growing aquatic weeds.

(b) [Reserved]

2. In Part 561:

a. The authority citation for Part 561 continues to read as follows:

**Authority:** 21 U.S.C. 348.

**§§ 561.55, 561.90, 561.175, 561.195, 561.231, 561.237, 561.265, 561.281, 561.320, 561.371, and 561.395 [Removed]**

b. By removing §§ 561.55, 561.90, 561.175, 561.195, 561.231, 561.237, 561.265, 561.281, 561.320, 561.371, and 561.395.

**§§ 561.253 and 561.380 [Amended]**

c. By removing and reserving paragraph (b) in §§ 561.253 and 561.380.

**§§ 561.20, 561.98, 561.280 [Amended]**

d. By removing paragraphs (b), (c), and (d) and reserving paragraph (b) in §§ 561.20, 561.98, and 561.280.

e. By revising § 561.330 to read as follows:

**§ 561.330 Propargite.**

(a) Tolerances are established for residues of the insecticide propargite (2-(*p-tert*-butylphenoxy)cyclohexyl 2-propynyl sulfite) in the following processed feeds, when present therein as a result of the application of propargite to growing crops:

| Feeds | Parts per million |
|---|---|
| Apple pomace, dried | 80 |
| Citrus pulp, dried | 40 |
| Grape pomace, dried | 40 |

(b) [Reserved]

[FR Doc. 88-3429 Filed 2-12-88; 2:52 p.m.]

BILLING CODE 6560-50-M

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 943

## Proposed Amendments to Texas Permanent Regulatory Program; Reopening and Extension of Public Comment Period

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

**ACTION:** Proposed rule; reopening and extension of public comment period.

**SUMMARY:** By letter dated October 22, 1986, the State of Texas submitted proposed amendments to its permanent regulatory program (hereinafter referred to as the Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments consist of revisions to the Texas program concerning water quality standards and effluent limits, prime farmland, notices of violation, and lands unsuitable for mining. OSMRE published a notice in the 1986 **Federal Register** announcing receipt of the amendments and inviting public comment on the adequacy of the proposed amendments.

After reviewing the proposed Texas amendments, OSMRE notified the State of its concerns regarding some of the amendments. The State then submitted a revised amendment package on April 28, 1987 that addressed OSMRE's concerns as well as comments received in the State rulemaking process.

Accordingly, OSMRE is reopening and extending the comment period on Texas' October 22, 1986 amendments as modified on April 28, 1987. This action is being taken to provide the public with an opportunity to consider the adequacy of the revised proposed amendments.

**DATES:** Written comments, relating to Texas' proposed modification of its program not received on or before 4:00 p.m., c.s.t. on March 3, 1988, will not necessarily be considered in the Director's decision to approve or disapprove the amendment.

**ADDRESSES:** Written comments should be mailed or hand delivered to: James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135; Telephone (918) 581-6430.

Copies of the Texas program, the proposed modification to the program and all written comments received in response to this notice will be available for public review at the Tulsa Field Office, listed above, and at OSMRE Headquarters Office, and the office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays. Each requestor may receive free of charge, one single copy of the proposed amendments by contacting OSMRE's Tulsa Field Office.

Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 E. Skelly Drive, Suite 550, Tulsa, OK; Telephone (918) 581-6430

Office of Surface Mining Reclamation and Enforcement, Room 5131, 1100 "L" Street NW., Washington, DC 20240; Telephone (202) 343-5492

Surface Mining and Reclamation Division, Railroad Commission of Texas, Capitol Station, P.O. Drawer 12967, Autsin, TX 78711; Telephone: (512) 463-6900

**FOR FURTHER INFORMATION CONTACT:** Mr. James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135; Telephone: (918) 581-6430.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Texas program was conditionally approved by the Secretary of the Interior effective February 16, 1980. Information pertinent to the general background, revisions, modifications, and amendments to the Texas program submission as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Texas program can be found in the February 27, 1980, **Federal Register** (45 FR 12998). Subsequent actions taken with regard to Texas' approved program amendments and required amendments can be found at 30 CFR 943.10, 943.15, and 943.16.

### II. Proposed Amendments

By letter dated October 22, 1986, [Administrative Record No. TX-373], Texas submitted a package of proposed amendments to OSMRE. The amendments consist of proposed modifications to Texas regulations concerning water quality standards and effluent limitations, prime farmland, notices of violation, and lands unsuitable for mining.

OSMRE announced receipt of the amendments and initiated a 30-day public comment period on December 3, 1986 (51 FR 43618). The comment period closed on January 2, 1987.

During the review of these amendments, OSMRE identified several concerns. OSMRE notified Texas of its concerns by letter dated January 8, 1987 [Administrative Record No. TX-386].

By letter dated April 28, 1987 [Administrative Record No. TX-396], Texas submitted a revised amendment to resolve OSMRE's concerns as well as concerns raised in the Texas rulemaking process. The full text of the revised amendment package is available for review at the locations listed above under **"ADDRESSES"**. OSMRE is now seeking comment on the April 28, 1987, proposed amendments. If the Director determines that the proposed amendments are no less stringent than SMCRA and no less effective than the Federal regulations, the amendments will be approved and become part of the approved regulatory program for the State of Texas.

### List of Subjects in 30 CFR Part 943

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Date: February 3, 1988.

**Raymond L. Lowrie,**

*Assistant Director, Western Field Operations.*

[FR Doc. 88-3290 Filed 2-16-88; 8:45 am]

BILLING CODE 4310-05-M

## 30 CFR Part 943

## Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to the Texas Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** OSMRE is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of a proposed amendment submitted by the State of Texas as a modification to its permanent regulatory program (hereinafter referred to as the Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of revised regulations which would

partially replace those now implementing the Texas program.

This notice sets forth the times and locations that the Texas program and the proposed amendment will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and information pertinent to the public hearing.

**DATES:** Written comments from the public not received by 4:00 p.m., c.s.t. on March 18, 1988 will not necessarily be considered in the decision process.

If requested, a public hearing on the proposed amendment will be held at 10:00 a.m. on March 14, 1988 at the location shown below under **"ADDRESSES".**

**ADDRESSES:** Written comments and requests for a hearing should be mailed or hand-delivered to: Mr. James Moncrief, Director, Tulsa Field office, Office of Surface Mining Reclamation and Enforcement, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135; Telephone: (918) 581–6430.

Copies of the Texas program, the proposed modifications to the program, and the administrative record of the Texas program are available for public review and copying at the OSMRE offices and the State regulatory authority office listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting the OSMRE Tulsa Field Office.

Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135; Telephone: (918) 581–6430

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street NW, Room 5131, Washington, DC 20240; Telephone: (202) 343–5492

Surface Mining Reclamation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711; Telephone: (512) 463–6901

If a public hearing is held, its location will be: The Federal Building, Room 577, 300 East 8th Street, Austin, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135, Telephone: (918) 581–6430.

**SUPPLEMENTARY INFORMATION:**

## I. Public Hearing

Any person interested in making an oral or written presentation at the hearing should contact Mr. James Moncrief at the OSMRE Tulsa Field office by 4:00 p.m. on March 3, 1988. If no one expresses an interest in participating in the hearing by this date, a hearing will not be held. If only one person has so contacted Mr. Moncrief, a public meeting, rather than a hearing may be held; the results of the meeting will be included in the Texas Administrative Record.

## II. Background

The Secretary of the Interior conditionally approved the Texas program effective February 16, 1980. Information pertinent to the general background, revisions, modifications and amendments to the permanent program submissions, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Texas program can be found in the February 27, 1980 **Federal Register** [45 FR 12998]. Subsequent actions concerning the approval and program amendments are identified at 30 CFR 943.10, 943.15, and 943.16.

## III. Submission of Amendment

In accordance with the provisions of 30 CFR 732.17(d) through (f), on May 20, 1985 [Administrative Record No. 358], OSMRE notified Texas of the changes necessary to ensure that the approved regulatory program was no less effective than SMCRA and its implementing regulations, as revised since February 16, 1980, when the program was originally approved. To comply with this letter, the Railroad Commission of Texas completed a partial rewrite of the Texas Coal Mining Regulations governing its permanent regulatory program.

By letter of July 31, 1987, Texas submitted these regulations to OSMRE as a program amendment [Administrative Record No. TX–393]. The proposed regulations, in Subchapter A, General, Parts 700 and 701; Subchapter F, Lands Unsuitable for Mining, Parts 762 and 764; Subchapter G, Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Procedures Operations Permits and Coal Exploration Procedures System, Parts 770, 771, 776, 778, 779, 780, 783, 784, 785, 786, and 795; Subchapter J, Bond and Insurance Requirments For Surface Coal Mining and Reclamation Operations, Parts 800, 806, and 807; Subchapter K, Permanent Program Performance Standards—Coal Exploration, Parts 815, 816, 817, and 819; Subchapter L, Permanent Program Inspection and Enforcement Procedures, Parts 840, 843, and 845 would replace the currently approved regulations. In addition, Texas proposes to add a new part 850, for the training, examination, and certification of blasters, and renumber all regulations in the Texas regulatory program.

In accordance with the provision of 30 CFR 732.17, OSMRE is now seeking comment on whether the proposed regulations satisfy the criteria for approval of state program amendments set forth at 30 CFR 732.15 and 732.17. If the amendments are found to be as stringent as SMCRA and no less effective than the Federal regulations, they will be approved and the amendment will become part of the Texas permanent regulatory program.

### List of Subjects in 30 CFR Part 943

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Date: February 3, 1988.

**Raymond Lowrie,**

*Assistant Director, Western Field Operations.*

[FR Doc. 88–3291 Filed 2–16–88; 8:45am]

**BILLING CODE 4310–05–M**

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## DEPARTMENT OF DEFENSE

## Department of Army

## 32 CFR Part 651

**[Regulation No. 200–2]**

## Revision of Army Regulation 200–2, Environmental Effects of Army Actions

**AGENCY:** Department of Army, DOD.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Army is proposing to revise Army Regulation 200–2, which implements the provisions of the National Environmental Policy Act (NEPA) of 1969 and the President's Council on Environmental Quality regulations (40 CFR Parts 1500–1508). The revision is necessary to clarify and update the current version of this regulation. The revision clarifies organizational responsibilities, revises the list of actions which are categorically excluded from environmental impact analysis, clarifies public involvement procedures, and provides new guidance on mitigation and monitoring of environmental impacts. It states the Army's policy on incorporation of NEPA procedures into the Remedial Investigation/Feasibility Study (RI/FS) stages of hazardous substance cleanup actions required under the Comprehensive Environmental Response, Cleanup and

Liability Act, as amended by the Superfund Amendments and Reauthorization Act (CERCLA/SARA). It requires that mitigations to which the Army commits itself in a NEPA environmental document must be identified for funding as line item(s) in the project budget. The revised regulation incorporates field experience and other experiences since the last publication of the regulation.

**DATE:** Comments must be received no later than close of business on March 18, 1988.

**ADDRESS:** Send written comments to COL Ronald G. Kelsey, Chief, Army Environmental Office, ATTN: CEHSC-E, Pulaski Building, Room 6123, 20 Massachusetts Avenue NW., Washington, DC 20314-1000, telephone #: (202) 272-0593/8696.

**FOR FURTHER INFORMATION CONTACT:** Ray Clark, Environmental Protection Specialist, Army Environmental Office, ATTN: CEHSC-E, Pulaski Building Room 6123, 20 Massachusetts Avenue NW., Washington, DC 20314-1000, telephone # (202) 272-0597/8696.

**SUPPLEMENTARY INFORMATION:**

### Costs and Benefits

This rule has been reviewed under Executive Order 12291 and the Secretary of the Army has classified the action as non-major. The effect of the rule on the economy will be less than $100 million. Therefore, neither a regulatory impact analysis nor a full regulatory evaluation is required.

### Small Business Impact

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this section does not have a significant impact on a substantial number of small entities.

### Paperwork Reduction

This rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

### List of Subjects in 32 CFR Part 651

Environmental protection, Environmental impact statements, Natural resources, Ecology.

**Lewis D. Walker,**

*Deputy for Environment, Safety and Occupational Health OASA (I&L).*

Accordingly 32 CFR Part 651 is proposed to be revised to read as follows:

## PART 651—ENVIRONMENTAL EFFECTS OF ARMY ACTIONS (AR 200-2)

**Subpart A—General**



**Subpart B—Records and Documents**



**Subpart C—NEPA and the Decision Process**



**Subpart D—Categorical Exclusions**



**Subpart E—Environmental Assessment**



**Subpart F—Environmental Impact Statement (EIS)**



**Subpart G—Public Involvement and the Scoping Process**



**Subpart H—Environmental Effects of Major Army Actions Abroad**





**Authority:** National Environmental Policy Act of 1969 (NEPA), 42 U.S.C 4321 *et seq.*, Council on Environmental Quality Regulations, 40 CFR Part 1500, 43 FR 55990-56007, Nov. 29, 1978, as amended, and EO 12114.

### Subpart A—General

#### § 651.1 Purpose.

This regulation states Department of the Army (DA) and Army National Guard (ARNG) policy, assigns responsibilities, and establishes procedures to integrate environmental considerations into Army planning and decisionmaking. Through this regulation, the Army will match the military mission activities with the ecological compatibility of the land and natural resources in order to maintain resources for realistic training, while minimizing impacts on the human and natural environment. Decision makers shall be conscious of, and responsible for, the impact of their decisions on cultural resources, soils, forests, rangelands, water and air quality, and fish and wildlife, as well as other natural resources under their stewardship. The DA will endeavor to ensure the wise use of natural resources on Army land. This regulation is in accordance with 42 USC 4321, et. seq., "National Environmental Policy Act of 1969" (NEPA), the Council on Environmental Quality (CEQ) regulations of 29 November 1978 as amended, 40 CFR Parts 1500-1508, and Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions", 4 January 1979.

#### § 651.2 Background.

(a) NEPA establishes national policies and goals for environmental protection. Section 102(2) of NEPA contains procedural requirements for the attainment of such goals. In particular, it requires the Army, along with all Federal agencies, to consider, through

their planning and decisionmaking, environmental effects of their proposed actions. The Army shall identify significant environmental effects of proposed programs and projects in adequate detail. These effects will be considered in the decision process along with technical, economic and other necessary factors.

(b) EO 11991 (24 May 1977) directed the CEQ to issue regulations implementing NEPA's procedural provisions. Accordingly, CEQ issued final regulations for implementing NEPA's procedural provisions (40 CFR Part 1500–1508) on 29 November 1978. These regulations became binding on all Federal agencies on 30 July 1979. The regulations provide that each Federal agency shall adopt procedures to supplement the CEQ regulations. The Department of Defense (DOD) issued its implementing procedures in DOD Directive 6050.1 on 30 July 1979, "Environmental Effects in the United States of DOD Actions".

(c) Executive Order 12114 directs that Federal agencies prepare procedures to implement the EO with respect to areas outside the United States. Accordingly, DOD issued DOD Directive 6050.7, "Environmental Effects Abroad of Major Department of Defense Actions," 31 March 1979.

**§ 651.3 Applicability.**

(a) Subparts A through G and Appendices A through D in this regulation apply to: Headquarters, Department of the Army (HQDA), Army Staff (ARSTAF), all Army Commands, Army Reserve, and Army National Guard (ARNG), and to all subordinate activity and agency (hereinafter referred to as Army agencies) actions affecting the environment in the United States,[1] and are effective immediately.

(b) Subpart H and Appendixes E and F of this regulation apply to HQDA and Army agencies' actions that would significantly affect the quality of the human environment outside the United States.

(c) This regulation applies to proposals and activities of the ARNG involving Federal funding and/or National Guard Bureau (NGB) approval.

(d) The Civil Works functions of the Corps of Engineers are not subject to this regulation. See Corps of Engineers regulation ER 200–2–2, "Environmental Quality: Policy and Procedures for Implementing NEPA."

(e) Combat or combat-related activities in a combat zone are not subject to this regulation.

**§ 651.4 Policies.**

It is the continuing policy of the Army to manage its resources and serve as a trustee of the environment. In order to accomplish this policy, the Army will:

(a) Carry out its mission of national security in a manner consistent with NEPA and other applicable environmental standards, laws, and policies.

(b) Employ all practicable means consistent with other essential considerations of national policy to minimize or avoid adverse environmental consequences and to attain the goals and objectives stated in sections 101 and 102 of NEPA.[2] Environmental considerations will be integrated into the decisionmaking process ensuring that:

(1) Major decison points are designated for principal programs and proposals likely to have a significant affect on the quality of the human environment, while providing for the NEPA process to coincide with these decision points.

(2) Relevant environmental documents, comments, and responses accompany the proposal through the existing Army review and decisionmaking process. The Army will integrate NEPA requirements with other planning and environmental review procedures required by law or Army practice so review of environmental considerations is concurrent rather than consecutive.

(3) The alternatives considered are within the range of alternatives discussed in relevant environmental documents.

(c) Recognize the worldwide and long-range character of environmental problems. Where consistent with national security requirements and the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in protecting the quality of the world human environment. In accordance with Executive Order 12114, DOD Directive 6050.7, and Subpart H of this regulation, incorporate an environmental planning and evaluation process into Army actions which may significantly affect global commons, the environments of other nations, or any protected natural or ecological resources of global importance.

(d) Comply with laws, other than NEPA, which require the Army to gain approval of other Federal, State, or local Government agencies before taking actions that may have environmental consequences. Compliance with such laws does not relieve the responsible official from preparing and processing necessary environmental documents. NEPA compliance is required unless existing law, applicable to a specific action or activity, prohibits, exempts or makes compliance impossible.

(e) When appropriate, ensure review of environmental documentation to consider operations and security (OPSEC) principles and procedures described in AR 530–1. These reviews will be documented on the cover sheet or signature page.

**§ 651.5 Responsibilities.**

(a) The Secretary of the Army shall designate an Assistant Secretary of the Army (ASA) to serve as the Army's responsible official for NEPA matters. The ASA for Installations and Logistics (I&L) has been so designated.

(b) The Chief of Engineers exercises ARSTAF responsibility for coordinating and monitoring NEPA activities within the Army. Through the Assistant Chief of Engineers (DAEN–ZC), the Chief of Engineers is the ARSTAF point of contact (POC) for environmental matters, and:

(1) Provides assistance in completing environmental documentation through identifying and quantifying environmental impacts and selecting impact mitigation techniques.

(2) In cases of multiple Army agency involvement, designates a single agency or lead office with responsibility for preparing and processing environmental documentation. Assigns Army lead agency responsibility in cases of non-Army agency involvement.

(3) Reviews and comments on environmental impact statements (EISs) submitted by Army, other DOD components and other Federal agencies.

(4) Monitors proposed Army policy and program documents that have

[1] *United States* means the 50 states, the District of Columbia, territories, and possessions of the United States and all waters and airspace subject to the territorial jurisdiction of the United States. United States also includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Marianas. The territories and possessions of the United States include the Virgin Islands, American Samoa, Wake Island, Midway Island, Guam, Palmyra Island, Johnston Atoll, Navassa Island, Kingman Reef, and the Trust Territory of the Pacific Islands, subject however to future changes in their legal status. Certain environmental statutes may specify other definitions of "United States"; therefore, a particular statute or regulation may not affect overseas installations. Consult applicable statutes and Status of Force Agreements for guidance.

[2] These goals are: safe, healthful, productive and aesthetically pleasing surroundings, fairness to future generations; historic, cultural, and natural heritage amenity; variety and diversity of individual choice; balance of population and resource use; and enhancement of renewable resources and maximum recycling of depletable resources.

environmental implications to determine compliance with NEPA requirements and to ensure integration of environmental considerations into the decisionmaking process.

(5) Maintains liaison with the Office of Management and Budget (OMB), CEQ, Environmental Protection Agency (EPA), and other Federal, state and local agencies, with respect to their environmental policies which may affect the Army. This assists in the identification and evaluation of applicable regulatory policies for proposed actions.

(6) Maintains a current record from which access to Environmental Impact Statements (EISs) may be obtained from the proponent. Also maintains a record of those actions of national concern which resulted in a Finding of No Significant Impact (FNSI).

(7) Establishes procedures for retention of Environmental Impact Statements prepared by the Army. Specifically, retains a copy of each draft and final EIS (DEIS and FEIS) prepared by the Army. The EIS will be retained until the proposed action and any mitigation program is complete or the information therein is no longer valid. The EIS is then deposited in the National Archives and Records Service, Government Services Administration (GSA).

(8) May require the revision or preparation of environmental documents, as appropriate, to ensure adequate consideration of environmental impacts when a proponent has failed to do so.

(9) Comments on EISs within those areas of assigned staff responsibility and technical capability.

(10) Resolves issues in determining if a public hearing or public scoping meeting is appropriate for the proposed action and assigns the responsibility to an appropriate office.

(11) Designates an office to provide the capability to perform the above responsibilities. The Army Environmental Office (CEHSC–E) has been so designated.

(c) HQDA Staff Agencies will:

(1) Apply the policies and procedures set forth in this regulation to programs and actions within their staff responsibility (except for State funded operations of ARNG).

(2) Task the appropriate component with preparation of Environmental Assessments (EAs) and/or EISs. Proponents may conduct their preparation in-house, through contract, or pursue indirect preparation with the assistance of supporting U.S. Army Corps of Engineers (USACE) Districts.

(3) Initiate the preparation of necessary environmental documentation, assess proposed programs and projects to determine their environmental consequences, and initiate environmental documents to be circulated and reviewed along with other planning or decision-making documents. These documents include full DD Form 1391 (Military Construction Project Data), Case Study and Justification Folder, Integrated Program Summary, and other documents proposing or supporting proposed programs or projects.

(4) Coordinate appropriate environmental documents with Army staff agencies (ARSTAF).

(5) Designate, record, and report the identity of the agency's single POC for NEPA considerations to the Army Environmental Office.

(6) Assist in the review of environmental documents prepared by DOD and other Army or Federal agencies, as requested.

(7) Coordinate with the Army Environmental Office proposed directives, instructions, regulations and major policy publications that have environmental implications.

(8) Maintain the capability (personnel and other resources) to comply with the requirements of this regulation (See 40 CFR 1507.2).

(9) Prepare and maintain a Record of Decision (ROD) on each EIS for which they are the Staff proponent.

(d) The Judge Advocate General (TJAG) will provide legal advice and assistance in the interpretation of NEPA and CEQ regulations, as requested. TJAG will also interface with Army Office of General Counsel, Corps of Engineers General Counsel, and the Department of Justice on NEPA related litigation.

(e) The Assistant Secretary of the Army (Financial Management) will establish procedures to ensure compliance with the requirements for environmental exhibits/displays of data in support of annual authorization requests.

(f) The Surgeon General (TSG) is responsible for environmental review related to the health and welfare aspects of proposed EISs submitted to HQDA. Army agencies are encouraged to draw upon the special expertise which is available within the medical department, including the U.S. Army Environmental Hygiene Agency, to identify and evaluate environmental health impacts.

(g) The Chief of Public Affairs will:

(1) Provide guidance on the issuance of public announcements required by this regulation including Findings of No Significant Impact, Notices of Intent (NOI), scoping procedures, Notices of Availability, and other public involvement activities;

(2) Review and coordinate planned announcements on actions of local or national interest with appropriate ARSTAF elements and the Assistant Secretary of Defense for Public Affairs [OASD (PA)], as necessary;

(3) Provide public affairs guidance in conducting environmental programs;

(4) Be point of contact for media inquiries that are of national significance;

(5) Issue press releases that coincide with the publication of FNSIs, NOIs, and NOAs, as necessary.

(h) The Chief of Legislative Liaison will notify members of Congress of impending EISs and EAs of national concern.

(i) MACOM commanders and ARNG Adjutant Generals are responsible for monitoring proposed actions and programs for accomplishment within their commands. MACOMs task the appropriate component with preparation of EA/EIS and development of public involvement activities. Proponents may conduct their preparation in-house, through contract or pursue indirect preparation with the assistance of supporting USACE Districts. In addition, MACOMs are responsible for assuring that appropriate environmental documentation is prepared and, as necessary, is forwarded to HQDA, and will:

(1) Apply the policies and procedures set forth in this regulation to programs and actions within their command and staff responsibility.

(2) Initiate the preparation of necessary environmental documentation, and assess the environmental consequences of proposed programs and projects.

(3) Circulate and review environmental documents at the same time with other planning or decision-making documents. These related documents include full DD Form 1391 (Military Construction Project Data), Case Study and Justification Folder, Integrated Program Summary, and other documents proposing or supporting proposed programs or projects.

(4) Coordinate appropriate environmental documents and public affairs initiatives with HQDA agencies and the Army Environmental Office.

(5) Designate, record, and report the identity of the agency's single POC for NEPA considerations to the Army Environmental Office.

(6) Assist in the review of environmental documents prepared by

DOD and other Army or Federal agencies, as requested.

(7) Coordinate proposed directives, instructions, regulations and major policy publications that have environmental implications with the Army Environmental Office.

(8) Maintain the capability (personnel and other resources) to comply with the requirements of this regulation (See 40 CFR 1507.2).

(9) Prepare and maintain a ROD on EISs for which they are the Staff proponent.

(10) Develop public affairs initiatives, when appropriate, for actions requiring EAs/EISs.

## Subpart B—Records and Documents

### § 651.6 Summary of required records and documents.

The following written records and documents are required in order to fully implement this regulation:

(a) *Record of Environmental Consideration (REC).* See format at Figure 2–1 and Subpart C for application.

(b) *Environmental Assessment (EA).* See Subpart E for requirements.

(c) *Finding of No Significant Impact (FNSI).* See §§ 651.12(b)(2) and 651.23 for applicability and processing.

(d) *Notice of Intent (NOI).* See §§ 651.30(a), 651.31(a), and 651.33 for application.

(e) *Environmental Impact Statement (EIS).* See Subpart F for requirements.

(f) *Record of Decision (ROD).* See §§ 651.12(b)(3)(d) and 651.30(i) for application.

### § 651.7 Definitions.

(a) *Record of Enviromental Consideration (REC).* The REC describes the proposed action and its anticipated time frame, identifies the proponent, and explains why further environmental documentation is not required. It is a signed statement to be submitted with project documentation. It is used when the proposed action is exempt from the requirements of NEPA, or has been adequately assessed in existing documents and determined not to be environmentally significant. A REC is also used to document the use of those categorical exclusions which require such records. See Figure 2–1 for a suggested format which contains the elements of a REC.

(b) *Environmental Assessment (EA).* An EA is a document which:

(1) Briefly provides the decisionmaker with sufficient evidence and analysis for determining whether the action should result in a FNSI or whether an EIS should be prepared.

(2) Assures compliance with NEPA, if an EIS is not required and a CX is inappropriate.

(3) Facilitates preparation of a required EIS.

(4) Shall include brief discussions of the need for the proposed action, alternatives to the proposed actions (see NEPA, Section (2)(e)), the proposed and alternative actions' environmental impacts, and a listing of persons and agencies consulted.

(c) *Finding of No Significant Impact (FNSI).* A FNSI is a document which briefly states why an action will not significantly affect the environment, thus voiding the requirement for an EIS. The FNSI shall include a summary of the conclusions of the EA and shall note any environmental documents (ED) related to it. If the EA is attached, the FNSI need not repeat any of the EA's discussion, but may incorporate it by reference.

(d) *Notice of Intent (NOI).* An NOI is a public notice that an EIS will be prepared and considered. The NOI shall briefly:

(1) Describe the proposed and alternative actions.

(2) Describe the proposed scoping process, including whether, when, and where any public meeting(s) will be held.

(3) State the name and address of the POC who can answer questions on the proposed action and its EIS.

(e) *Environmental Impact Statement (EIS).* An EIS is a detailed written statement required by NEPA for major Federal actions with significant environmental effects [42 U.S.C. 4321, section 102(2)(c)].

(f) *Life Cycle Environmental Document (LCED).* The LCED is intended to be a programmatic assessment which addresses the known and reasonably foreseeable environmental impacts of a proposed item/system during all phases of development, production, use, and ultimate disposal of the item/system. The LCED may be in the form of an EA or an EIS, and must be supplemented to address additional significant environmental impacts as conditions change. The LCED will be prepared by the DA proponent/developer (or program manager) and is most frequently used within the material research, development, and acquisition community.

(g) *Record of Decision.* A public Record of Decision (ROD) is required under the provisions of 40 CFR 1505.2 after completion of an EIS. Nevertheless, the ROD is not considered to be an environmental document since the decision considers other factors in addition to environmental issues.

(h) *Reports control symbol (RCS).* To comply with AR 335–11 as specified in EP 335–1–1, the legend "RCS DD–M (AR) 1327" will appear on the signature page of all EAs and EISs.

### § 651.7a Optional documents.

The following additional documents may assist in the implementation of this regulation. These documents are optional, but their use is encouraged.

(a) *Environmental Planning Guide.* Prepared prior to or at the outset of a major program concept exploration. It is a concise (e.g., 10 page) document intended for use by the program planners and designers. It provides guidelines and supporting rationale by which planners and designers could prevent, avoid, or minimize adverse environmental effects through environmentally sensitive design and planning. Through appropriate language in the Scope of Work, contractors can be encouraged or required to use such an Environmental Planning Guide.

(b) *Environmental Planning Record.* This records the progress and process of environmental considerations throughout a given program's development. Ideally it is a document which is written when the program commences. There is no set form; essentially, it may be a journal with periodic entries, a file of memos, trip reports, etc. This document is a visible track record of how environmental factors have actually been considered and incorporated throughout the planning process. Through appropriate language in the Scope of Work, contractors can be encouraged or required to prepare an Environmental Planning Record, or parts thereof.

(c) *Environmental Monitoring Report.* This is prepared at one or more points after program or action execution. Its purpose is to determine the accuracy of impact predications. It can serve as the basis for adjustments in mitigation programs, and can also serve to adjust impact predictions in future projects.

### § 651.7b Environmental documentation terms.

(a) *Categorical Exclusion (CX).* A CX (40 CFR 1508.4) is a category of actions which do not require an EA or an EIS because DA has determined that the actions do not have an individual or cumulative impact on the environment. If qualifications are met for a CX (See § 651.16 and screening questions at Appendix A), a Record of Environmental Consideration may be required. The Army Environmental

Office will maintain for all Army agencies a master list of actions which normally qualify for a categorical exclusion. This list will include those identified in this regulation (Appendix A), and those nominated by Army agencies and approved by HQDA. Refer to Subpart D for further discussion.

(b) *Major Federal Action.* In this regulation, the phrase "major federal action" reinforces, but does not have a meaning independent of, "significantly affecting the environment," and shall be interpreted in that context. "Major federal action" is not a determinant in a decision to prepare or not prepare environmental documentation.

(c) *Significantly affecting the environment.* This phrase describes an action, program or project which would violate existing pollution standards; cause water, air, noise, soil or underground pollution; impair visibility for substantial periods of any day; cause interference with the reasonable peaceful enjoyment of property or use of property; create an interference with visual or auditory amenities; limit multiple use management programs for an area; cause danger to the health, safety, or welfare of human life; or cause irreparable harm to animal or plant life in an area. Also see 40 CFR 1508.27.

(d) *Proponent.* Proponent identification is dependent on the nature and scope of a proposed action.

(1) Proponency may reside with any Army or ARNG structure. For instance, the Army/ARNG installation/activity Facility Engineer (FE)/Director of Engineering and Housing becomes the proponent of installation-wide MCA/MCARNG and O&M/OMARNG Activity; the State ARNG Facility Management Officer (FMO) becomes the proponent of State-wide MCARNG/OMARNG Activity; Commander, TRADOC becomes the proponent of a change in initial entry training; the State Adjutant General becomes the proponent of a proposal to establish a new ARNG facility (Training Site, Army Aviation Support Facility (AASF), Armory, Organizational Maintenance Shop (OMS), Combined Support Maintenance Shop (CSMS), Army Aviation Classification Repair Activity Depot (AVCRAD), Mobilization and Training Equipment Site (MATES), Unit Training and Equipment Site (UTES), etc.). The proponent may or may not be the preparer.

(2) In general, the proponent is the lowest level decisionmaker. This is the unit, element, or organization which is responsible for initiating and/or carrying out the proposed action. The proponent has the responsibility to prepare and/or secure funding for preparation of the environmental documentation. MCA/MCAR funds may not be used for preparation of environmental documents. OMA/OMAR or other operating funds are the proper sources of funds for environmental document preparation.

(3) The Chief, Installations Division (NGB-ARI) and the Chief, Environmental Resources Branch (NGB-ARI-E) have supervisory responsibility for the ARNG Environmental Program. In specific cases, such as the construction of a water treatment facility or a flood control plan, the Engineer could be the proponent. The Engineer (NGB-ARI/FMO) and/or his Environmental Management Staff should advise proponents as to the format and technical data which must be considered in the Environmental Document (ED). The Engineer's Environmental Management Staff is, however, responsible for reviewing each ED for compliance with NEPA and appropriate Army and/or ARNG Regulations. No matter who prepares the environmental document, the proponent remains responsible for its content and conclusions.

(4) The decisionmaking process often subjects proposal decisions to review and/or approval by higher level authorities including ARSTAF proponent; therefore, the review/approval of the environmental document follows the same channel of review/approval as that of the proposed action.

(e) *ARSTAF Proponent.* As the principal planner, implementor, and decision authority for a proposed action, it is responsible for the substantive review of the environmental documentation and its thorough consideration in the decisionmaking process.

(f) *Preparers.* Personnel from a variety of disciplines who write environmental documentation in clear and analytical prose. They are primarily responsible for the accuracy of the document.

**Record of Environmental Consideration**

To: (Environmental Officer)
From: (Proponent)
Project Title:
Brief Description:

Reason for using record of environmental consideration (choose one):

a. Adequately covered in an (EA, EIS) entitled _____, dated _____.

The EA/EIS may be reviewed at (location).

or,

b. Is categorically excluded under the provisions of CX_____, Appendix A, AR 200-2 (and no extraordinary circumstances exist as defined in 651.16(b)), because _____.

Project Proponent _____
Date _____

Installation Environmental Coordinator _____
Date _____

Office of the Staff Judge Advocate (If Categorical Exclusion A-28 is used) _____
Date _____

Variation from this format is acceptable, provided basic information and approvals are included in any modified document.

Figure 2-1 Format for Record of Environmental Consideration

## Subpart C—NEPA and the Decision Process

### § 651.8 General.

(a) The NEPA process includes the systematic examination of the possible and probable environmental consequences of implementing a proposed action. To be an effective decisionmaking tool, integration of this process with other Army project planning shall occur at the earliest possible time. This ensures that planning and decisionmaking reflect environmental values; that the policies and goals of § 651.4 of this regulation are implemented; and that delays and potential conflicts later in the process are minimized.

(b) To achieve these ends, NEPA requires, and the Army will use, a systematic, interdisciplinary approach which ensures the integrated use of the natural and social sciences, planning, and the environmental design arts. This approach will be applied to all Army decisionmaking which may have an impact on the human environment [Pub. L. 91-190; section 102(2)(A)]. This approach allows timely identification of environmental effects and values in sufficient detail for evaluation concurrently with economic, technical, and mission-related analyses at the earliest possible step in the decision process. It is Army policy that when EAs/EISs are undertaken, the economic and social impacts shall be included in the analysis of total environmental impacts. However, these secondary impacts, unaccompanied by physical environmental impacts, should not determine whether or not to prepare an environmental document.

(c) The NEPA process also requires the proponent of an action or project to identify and describe appropriate alternatives to the proposed action or project. To assist in identifying appropriate alternatives, the proponent

must consult appropriate Federal, State and local agencies and the general public.

(d) These procedures will assist the decisionmaker to select a preferred course of action. They provide the relevant background information and subsequent analyses of the proposal's positive and negative environmental effects. The decisionmaker's written environmental evaluation is either a CX with a REC, an EA with a FNSI, or an EIS.

**§ 651.9 Applicability.**

(a) The types of projects or actions to evaluate for environmental impact include:

(1) Policies, regulations, and procedures (e.g., Army regulations, circulars, or other issuances).

(2) New management and operational concepts and programs (in areas such as logistics, RDTE, procurement, personnel assignment).

(3) Projects (e.g., facilities construction, research and development for weapons, vehicles, and other equipment).

(4) Activities (e.g. individual and unit training, flight operations, overall operation of an installation or facility test and evaluation programs).

(5) Requests for a Nuclear Regulatory Commission license (new, renewal, or amendment) or an Army radiation authorization.

(6) Materiel development, acquisition, and/or transition.

(7) Research and development (in areas such as genetic engineering, laser testing, electromagnetic pulse generation).

(8) Installation Restoration (IR) projects undertaken pursuant to section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (CERCLA/SARA). The National Oil and Hazardous Substances Contingency Plan (40 CFR Part 300), implements the requirements of CERCLA/SARA, and describes a formal process, the feasibility study (FS), which provides (a) substantive and procedural standards to ensure full consideration of environmental issues and alternatives and (b) opportunity for the public to participate in evaluating environmental factors and alternatives before a final decision is made. In most cases, when a FS is prepared in accordance with 40 CFR Part 300, a second NEPA document is not required. As a matter of policy, the organization preparing the FS shall ensure the document also complies with 40 CFR 1502.16 (CEQ regulations implementing the provisions of NEPA). The cover of the FS document and the subsequent Record of Decision shall contain the legend "This document is intended to comply with the National Environmental Policy Act of 1969." All public notices announcing the availability of the FS shall also note this intent. IRP actions in which a FS is not prepared in accordance with 40 CFR Part 300 will require appropriate environmental documentation.

(b) In addition to the above, certain activities supported by the Army through the following actions require proper environmental documentation:

(1) Federal contracts, grants, subsidies, loans, or other forms of funding such as GOCO industrial plants and section 801[3] Housing (via third-party contracting).

(2) Leases, easements, permits, licenses, certificates, or other entitlement for use (e.g., grazing lease, grant of easement for highway right-of-way).

(3) Request for approval to use or store materials, radiation sources, hazardous and toxic material or wastes on Army land. If the requester is non-Army, the responsibility to prepare the proper environmental documentation is that of the non-Army requestor. If required, the requestor will provide information needed for the Army review. The Army reviews and approves all environmental documentation before approving the request.

**§ 651.10 Categories of actions and procedures for environmental review.**

There are five broad categories into which a proposed action may fall for environmental review. These categories are:

(a) *Exemption by Law.* The law must apply to the Department of Defense and/or Army and must prohibit, exempt, or make impossible full compliance with NEPA. (40 CFR 1500.6). Also see § 651.11 for security exemptions.

(b) *Emergencies.* (1) In the event of an emergency, the Army may need to take immediate actions that have significant environmental impacts. These include immediate actions taken to promote the national defense or security and actions necessary for the protection of life or property. In such cases the ARSTAF proponent shall notify the Army Environmental Office, which in turn will then notfiy OASA (I&L) who will coordinate with the Assistant Secretary of Defense for Production and Logistics regarding the emergency action. Time is of the essence so that OASA (I&L) may consult with the CEQ if necessary. A public affairs plan should be developed as soon as possible so that channels of communication remain open between the media, public and the installation. In no event shall Army delay an emergency action necessary for national defense, security or preservation of human life or property to comply with this regulation or the CEQ Regulations (40 CFR Parts 1500–1508). State call-ups of ARNG during a natural disaster are excluded from this consultation requirement.

(2) These notifications apply only to actions necessary to control immediate effects of the emergency; other actions remain subject to NEPA review. (40 CFR 1506.11)

(3) After action reports may be required at the discretion of the OASA (I&L).

(c) *Categorical Exclusions (CX).* These actions (see Subpart D and Appendix A) normally do not require an EA or an EIS. The Army has determined that they do not individually or cumulatively have a significant effect on the human environment. Qualification for a CX is described in Subpart D of this regulation.

(d) *Environmental Assessment. Actions normally requiring an EA (§§ 651.20 and 651.21).* (1) If the proposed action is adequately covered within an existing EA or EIS, prepare a REC to that effect (See Figure 2–1).

(2) If the proposed action is within the general scope of an existing EA or EIS, but requires additional information, prepare a new environmental document which considers the new, modified, or missing information. Incorporate, by reference, existing documents and publish the conclusion (FNSI or NOI).

(3) If the proposed action is not covered adequately in any existing EA or EIS, or is of significantly larger scope than that decribed in the existing document, then prepare an EA followed by either a FNSI or a new EIS.

(e) *Environmental Impact Statement. Actions normally requiring an EIS (§§ 651.27 and 651.28).* (1) If it is determined that the action is covered adequately in a previously filed Final EIS (FEIS), the REC must so state, citing the applicable FEIS by name and date. The REC is then attached to the proponent's record copy of that FEIS.

(2) If the proposed action is within the scope of an existing FEIS but was not covered in that document or not covered adequately, then the proponent must prepare supplemental documentation to that FEIS.

[3] Section 801 of the Military Construction Authorization Act of 1984, 10 U.S.C. 2828 (Pub. L. 98–115).

(3) If the proposed action is not within the scope of any existing EIS, then the proponent must begin the preparation of a new EIS.

**§ 651.10a Determining appropriate environmental documentation.**

(a) The flow chart shown in Figure 3–1 summarizes the process for determining documentation requirements.

(b) The proponent of a proposed action may adopt appropriate environment documents (EAs or EISs) prepred by another agency (40 CFR 1500.4(n) and 1506.3). In such cases, the proponent will retain its own record keeping for RECs and RODs. See 40 CFR 1506.3 for procedures to follow when adopting other documents.

(c) When an existing adequate EA or EIS is used in lieu of preparation of a new document, the REC should so state the document title, date, and where it may be reviewed.

**§ 651.11 Classified actions.**

(a) 40 CFR 1507.3(c) covers limited exceptions to the procedural requirements of this regulation for proposed classified actions. Follow the provisions of AR 380–5 with respect to public dissemination of environmental documents containing classified information.

(b) Separate classified form unclassified facts and conclusions related to the proposed action. The processing of unclassified portions of the action may then proceed routinely in accordance with this regulation. The classified portions are kept separate for reviewers and decisionmakers with need-to-know as defined in AR 380–5 and § 651.11(c).

(c) Classification does not relieve a proponent of the necessity to assess and document the environmental effects of the proposed action. The ARSTAF proponent, in coordination with the Army Environmental Office and the Deputy Chief of Staff for Intelligence, Security Divisions (DAMI–CIS), may select a review team. The team may be drawn from the Army agency or office not connected with the proponent agency, or from agencies outside the Army. The review team's purpose is to provide an external review of classified environmental documents.

[Editorial note: This flow chart will be published in the final rule]

Figure 3–1 Flow Chart Summarizing Process for Determination of Document Requirements

**§ 651.12 Integration with Army planning.**

(a) The Army goal is to integrate environmental reviews concurrently with other Army planning and decisionmaking actions. This concurrent review avoids delays in mission accomplishments. To achieve this goal, ARSTAF should provide complete environmental documents for early inclusion with any recommendation or report to the decisiomakers (Master Plan, Natural Resource Management Plan, RI/FS, etc.). The same documents shall be forwarded to the planners, designers, and/or implementors so recommendations and mitigations on which the decision was based may be carried out.

(b) *Time limits.* The timing of the preparation, circulation, submission, and public availability of environmental documents is of great importance in ensuring environmental values are integrated in the planning and decision processes. It is important to remember that next to the project itself, a properly prepared EIS will require the longest time to complete.

(1) *Categorical exclusions.* When a proposed action is categorically excluded from further environmental review (in accordance with Subpart D and Appendix A), the proponent may proceed immediately with that action.

(2) *Findings of no significant impact.* (i) If the proposed action is one of national concern, is unprecedented, or normally requires an EIS, the proponent will make the FNSI available for public review 30 or more days prior to making a final decision. A news release is required to publicize the availability of the FNSI. If the action is of national significance, a simultaneous announcement must be made by HQDA, which includes publication in the **Federal Register.**

(ii) Except for those proposed actions referred to in paragraph (b)(2)(i) of this section, the proponent may allow a 30-day period or other reasonable period for public comment between the time that the FNSI is publicized (40 CFR 1506.6(b)) and the time the proposed action begins. Include a deadline and point of contact (POC) for receipt of comments in the FNSI and the news release.

(3) *Environmental Impact Statements.* (i) EPA publishes a weekly notice in the **Federal Register** of the EISs filed during the preceding week. (This notice usually occurs each Friday. A Notice of Availability (NOA) reaching EPA before noon on a Friday will be published in the following Friday **Federal Register.** Failure to deliver a NOA to EPA by noon on Friday will result in an additional one week delay.) A news release publicizing the action shall be made in conjunction with the notice in the **Federal Register.** The following time periods calculated from the publication date of the EPA notice will be observed:

(A) Not less than 45 days for public comment on DEISs (40 CFR 1506.10(c)).

(B) Not less than 15 days for public availability of DEISs prior to any public hearing on the DEIS (40 CFR 1506.10(c)(2)).

(C) Not less than 90 days total for public availability of the DEIS and FEIS prior to any decision on the proposed action. These periods may run concurrently (40 CFR 1506.10(b) and (c)).

(D) The time periods prescribed in subparagraphs (b)(3)(i)(A)–(C) of this section may be extended or reduced in accordance with 40 CFR 1506.10(b)(2) and 1506.10(d).

(ii) When variations to these time limits are set, the Army agency should consider the factors in 40 CFR 1501.8(b)(1).

(iii) The proponent may also set time limits for other procedures or decisions related to draft and FEIS's as listed in 40 CFR 1501.8(b)(2).

(iv) The entire EIS process could require more than one year (See Figure 3–2). This, it is important that the process begin as soon as the project is conceptualized and that the proponent coordinate with all staff elements who may have a role to play in the NEPA process. Most of this time is taken by the preparation of the DEIS and the revision and response to comments to prepare the FEIS. A public affairs plan should be developed which provides for periodic interaction with the community. There is a minimum public review time of 90 days between the publication of the DEIS and the announcement of the ROD. Army EISs are not normally processed in so short a time due to the internal staffing required for this type of action. After the availability of the ROD is announced, the action may proceed. Figure 3–2 indicates typical and required time periods for EISs.

(c) *Programmatic environmental review (tiering).* (1) Army agencies are encouraged to write programmatic environmental analyses when such programs are being considered for general application (40 CFR 1502.4(c), 1502.20 and 1508.23). This will eliminate repetitive discussions of the same issues and focus on the key issues at each appropriate level of project review. When a broad EIS or EA has been prepared and a subsequent EIS or EA is then prepared on an action included within the entire program or policy (particularly a site-specific action), it need only summarize issues discussed in the broader statement and concentrate on the issues specific to the subsequent action. This subsequent

document shall state where the earlier document is available.

(2) An example would be the assessment of a proposed major weapon system program. Development of an overall programmatic EIS or EA for the life cycle of the system is recommended. Tiered EAs and EISs, as appropriate, would evaluate specific subphases such as testing, production, development, use and ultimate disposal.

(d) *Scoping.* When the planning for a Army project or action indicates a need for an EIS preparation, the proponent initiates the scoping process (40 CFR 1501.7). This process determines the scope of issues to address in the EIS and identifies the significant issues related to the proposed action. During the scoping process the participants identify the range of actions, alternatives, and impacts to consider in the EIS (40 CFR 1508.25). For an individual action, the scope may depend on the relationship of the proposed action to other environmental documents.

[**Editorial note:** The time relationships will be published in the Final rule]

Figure 3–2 Time Relationships for Preparing and Processing an EIS

(2) The extent of the scoping process, including public involvement, will depend on several factors. These factors include: The size and type of the proposed action; whether the proposed action is of regional or national interest; the degree of any associated environmental controversy; the size of the affected environmental parameter(s), and the significance of any effects on them; the extent of prior environmental review; involvement of any substantive time limits; and requirements by other laws for environmental review.

(3) The proponent may incorporate scoping in the public involvement or environmental review process other than that required for an EIS. If so, significant reduction in the extent of scoping incorporated is at the proponent's discretion.

(4) Section 651.32 of this regulation discusses the procedures and actions to be taken by a proponent during an EIS scoping process.

(e) *Documentation and analyses.* Environmental documentation and analyses required by this regulation shall be integrated as much as practicable with other environmental reviews, laws, and executive orders (40 CFR 1502.25) and:

(1) Environmental documentation required by various state laws.

(2) Any cost-benefit analyses prepared in relation to a proposed action (40 CFR 1502.23).

(3) Permitting and licensing procedures required by Federal and State law. For instance, the Clean Air Act, as amended (42 U.S.C. 57401 *et seq.*) and the Clean Water Act, as amended (33 U.S.C. 125 *et seq.*).

(4) Installation and Army Master Planning functions and plans.

(5) Installation management plans, particularly those which deal directly with the environment. These include the Natural Resource Management Plans (Fish and Wildlife Management Plan, Forest Management Plan, Range Imrpovement or Maintenance Plan, and Historic Preservation Plan).

(6) Stationing and installation planning, force development planning, and material acquisition planning.

(7) Installation Compatible Use Zone (ICUZ) program.

(8) Hazardous waste management plans.

(9) Historic Preservation Plan as required by AR 420–40.

(10) Intergovernmental Coordination as required by AR 210–10.

(11) Asbestos Management Plans.

(f) *Relations with local and regional agencies.* Installation, agency, or activity environmental officers or planners should establish planning relations with other agencies. These agencies include the staffs of adjacent local governments and state agencies. This will promote cooperation and resolution of mutual land use and environment-related problems. Preparation of a Memorandum of Understanding is desirable for promoting cooperation and coordination. This memorandum will identify areas of mutual interest, establish points of contact, identify lines of communication between agencies, and specify procedures to follow in conflict resolution. Additional coordination is available from state and area-wide planning and development agencies, including those designated by AR–210–10. Thus, the proponent may gain insights on other agencies' approaches to environmental assessments, surveys, and studies of the current proposal. These other agencies would also be able to assist in identifying possible participants in scoping procedures for projects requiring an EIS.

**§ 651.13 Mitigation and monitoring.**

(a) *Identification in environmental documents.* Only those mitigation measures which can reasonably be accomplished as part of a proposed alternative shall be identified in environmental documentation (EA, FNSI, or EIS). Measures which the proponent will implement as part of the selected action will be included in the environmental documentation. Mitigation measures which appear practicable but unobtainable within expected resources, or which some other agency (including non-Army agencies) should perform, shall be identified as such in the environmental document. "Practicable" measures include, among others, actions which appear capable of being accomplished. Complete development or testing of the exact means of performing the action may not have occurred.

(b) *Consideration throughout the NEPA process.* Consider mitigation throughout the NEPA process. When an EIS or EIS Supplement is prepared, the ROD will state specific mitigation measures taken to reduce or avoid the selected action's adverse environmental effects. For EAs, the FNSI will state, when applicable, the appropriate mitigation measures to be implemented. Such mitigation measures shall become a project line item in the proposal budget. In addition, the FNSI will state those practicable mitigation measures which have not been adopted (40 CFR 1505.2(c).

(c) *Assistance from cooperating non-Army agencies.* Proponents may request assistance with mitigation when appropriate. Whether it is appropriate to request assistance is determined by whether the requested agency:

(1) Was a cooperating agency during preparation of an environmental document, or

(2) Has the technology, expertise, time, funds, or familiarity with proeject or local ecology necessary to implement the mitigation measure more effectively than the lead agency.

(d) *Implementing the decision.* (1) The proponent agency or other appropriate cooperating agency will implement mitigation and other conditions established in the EA/EIS or during its review, and committed as part of the FNSI or the ROD.

(2) Legal documents implementing the action (contracts, permits, grants, etc.) will specify mitigation measures to be performed. Penalties for noncompliance may also be specified as appropriate. Specification of penalties should be fully coordinated with the appropriate legal advisor.

(3) A monitoring and enforcement program shall be adopted and summarized in the ROD where applicable for any mitigation. (See Appendix D for guidelines on implementing such a program.) Whether adoption of a monitoring and enforcement program is "applicable" (40 CFR 1505.2(c)) and whether the specific

adopted action is an "important" case (40 CFR 1505.3) may depend on such factors as the following:

(i) A change in environmental conditions or project activities assumed in the EIS (such that original predictions of the extent of adverse environmental impacts may be too limited).

(ii) Cases in which the outcome of the mitigation measure is uncertain (e.g., new technology).

(iii) Projects in which major environmental controversy remains associated with the selected alternative.

(iv) Cases in which failure of a mitigation measure, or other unforeseen circumstances, could result in serious harm to Federal or State listed endangered or threatened species; important historic or archaeological sites that are either on, or meet eligibility requirements for nomination to, the National Register of Historic Places; wilderness areas, wild and scenic rivers, or other public or private protected resources (make the evaluation of serious harm in coordination with the appropriate Federal, State or local agency responsible for each particular program).

(v) The proponent shall respond to inquiries from the public or other agencies regarding the status of mitigation measures adopted.

## Subpart D—Categorical Exclusions

### § 651.14 Purpose and definition.

The use of Categorical Exclusions (CX) is intended to reduce paperwork and delay, and eliminate unnecessary EA/EIS preparation. CX are defined in § 651.7b(a) of this regulation.

### § 651.15 Criteria.

The criteria used to determine those categories of actions that normally do not require either an EIS or EA are:

(a) Minimal or no individual or cumulative effect on environmental quality.

(b) No environmentally controversial change to existing environmental conditions.

(c) Similarity to actions previously examined and found to meet the above criteria.

### § 651.16 Procedures.

(a) Determine whether the proposal is encompassed by one of the categories not normally requiring the preparation of an EA or EIS (see Appendix A).

(b) Determine if there are any extraordinary circumstances that may result in the proposed action having an impact on the human environment which would require an EA or EIS. These circumstances include:

(1) Greater scope or size than normally experienced for a particular category of action.

(2) Potential for degradation, even though slight, of already existing poor environmental conditions. Also, initiation of a degrading influence, activity, or effect in areas not already significantly modified from their natural condition.

(3) Employment of unproven technology.

(4) Presence of threatened or endangered species and their habitats, archaeological materials, historical places, or other protected resources.

(5) Use of hazardous or toxic substances which may come in contact with the surrounding natural environment. Nevertheless, a categorical exclusion exists for use of hazardous and toxic substances under adequately controlled conditions within established laboratory buildings which are designed for, and in compliance with, regulatory standards. Adequately controlled conditions includes complying with AR 385–10 (The Army Safety Program) for the processing of hazardous and toxic substances, and compling with the Resource Conservation and Recovery Act (RCRA) for their disposal.

(6) Proposed actions affecting areas of critical environmental concern. These include, but are not limited to, prime or unique agricultural lands, wetlands, coastal zones, wilderness areas, aquifers, floodplains, or wild and scenic river areas.

(c) Determine whether all the screening questions in Appendix A can be answered affirmatively.

(d) If the proposed action qualifies for one of the categorical exclusions, nothing more is necessary. However, if the exclusion requires a Record of Environmental Consideration (Figure 2–1), a REC shall be completed and signed by the proponent. Consultation between the proponent and the Installation Environmental Coordinator is required. If Categorical Exclusion A–28 is used, the signature of the Office of the Staff Judge Advocate (local or command, as appropriate) is required.

### § 651.17 Categorical exclusions.

Types of actions which normally qualify for categorical exclusion are listed in Appendix A.

### § 651.18 Modification of the list of categorical exclusions.

The Army list of CXs is subject to continual review and modification. Send, for review, requested additional modifications to the Army Environment Office. Subordinate Army headquarters may not modify the CX list through supplements to this regulation. Upon approval, proposed modifications to the list of CXs will be published in the **Federal Register** by the Army Environmental Office. This provides an opportunity for public review and comment.

## Subpart E—Environmental Assessment

### § 651.19 Purpose and definition.

The purpose of an EA is to determine the extent of the environmental impacts of a project and decide whether or not those impacts are significant. The EA is not required for actions which are subject to categorical exclusion or are subject to exclusion from environmental review by law (see 40 CFR 1508.9). The EA is defined at § 651.7(b).

### § 651.20 Criteria.

An EA is required when the proposed action has the potential for:

(a) Cumulative impact on environmental quality when combining effects of other actions or when the proposed action is of lengthy duration.

(b) Release of harmful radiation, or hazardous/toxic chemicals into the environment.

(c) Violation of pollution abatement standards.

(d) Some harm to culturally or ecologically sensitive areas.

### § 651.21 Actions normally requiring an EA.

The following actions normally require an EA:

(a) Special field training exercise or test activity on Army land of a nature or magnitude not within the annual installation training cycle.

(b) Military construction, including contracts for off post construction.

(c) An installation pesticide, fungicide, herbicide, insecticide, and rodenticide use program.

(d) Changes to established installation land use which generate impacts on the environment.

(e) Proposed changes in doctrine or policy with potential for environmental impact. (40 CFR 1508.18(b)(1))

(f) Repair or alteration projects affecting historically significant structures, archaeological sites, or places on or meeting the criteria for nomination to the National Register of Historic Places.

(g) Acquisition or alteration of, or space for, a laboratory which will use hazardous chemicals, drugs, biological or radioactive materials.

(h) Actions that could potentially cause soil erosion, affect prime or unique farm land, wetlands, floodplains, coastal zones, wilderness areas,

aquifers or other water supplies, or wild and scenic rivers.

(i) New weapon systems development and acquisition, including the materiel acquisition, transition, and release processes.

(j) Development of installation master plans and land and natural resource management plans.

(k) Proposals which may lead to the excessing of Army real property.

(l) Actions which take place in, or adversely affect, wildlife refuges.

(m) Timber management programs and/or proposals for energy conversion through forest harvest.

(n) Field activities on land not controlled by the military, including firing of weapons or missiles over navigable waters of the U.S.

(o) An action with local or regional effects on energy availability.

(p) An activity which affects any species on, or proposed for, the U.S. Fish and Wildlife Service list of Threatened and Endangered Plant and Animal Species. Also, activities affecting any species on an applicable state or territorial list of threatened or endangered species.

(q) Production of hazardous or toxic materials.

(r) Installation Restoration (IR) projects undertaken in response to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). See § 651.9(a)(8) for a full discussion of the integration of NEPA and CERCLA/SARA.

(s) O&M/OMARING projects which will result in an impact on environmental quality.

(t) Site specific deployment of life cycle systems meeting the threshold criteria for requiring an EA.

**§ 651.22 Components of the EA.**

(a) The EA shall be the responsibility of the proponent. The Environmental Office will advise and assist in the preparation of the EA. In the case of USAR environmental documentation, the supporting installation Facility Engineer is responsible for ensuring proper environmental documentation is prepared and will comply with the provisions of AR 140–475. The EA shall include brief discussions of:

(1) Purpose and need for the proposed action.

(2) Description of the proposed action.

(3) The alternatives considered (always including the "no action" alternative).

(4) Affected environment (baseline).

(5) Environment consequences of the proposed action and the alternatives.

(6) Listing of agencies and persons consulted, and

(7) The conclusion, or finding, on whether or not the environmental impacts are significant. If the finding is that there are no significant impacts, a FNSI will be published. If the finding is that the impacts are potentially significant, the EA should state that a NOI will be published leading to preparation of an EIS.

(b) The EA, and all other appropriate planning documents, will be provided to the appropriate decisionmaker(s) for review and consideration. The signature page will be signed by the decisionmaker(s) to indicate his/her review and approval.

**§ 651.23 Decision process.**

Every EA results in a FNSI or a Notice of Intent to prepare an EIS.

(a) The FNSI is a separate document (40 CFR 1508.13) which briefly presents reasons why an action will not have a significant effect on the human environment and, thus, will not be the subject of an EIS. The FNSI shall contain a summary of the EA or have the EA attached. If the EA is attached, the FNSI may incorporate it by reference, thus avoiding duplication of discussion. The FNSI shall reference other relevant environmental documents which are being or have been prepared. The FNSI must contain:

(1) The name of the action.

(2) A brief description of the action (including any alternatives considered).

(3) A short discussion of the anticipated environmental effects.

(4) The facts and conclusions which have led to the FNSI.

(5) A deadline and POC for further information or receipt of public comments. See § 651.32 of this regulation.

(b) The FNSI should not exceed two typewritten pages in length.

(c) The FNSI will be available to the public prior to initiation of the proposed action, unless it is excluded on a security basis. Security exclusions are discussed in paragraph 651.10a of this regulation (40 CFR 1501.4(e) and 40 CFR 1506.6). FNSIs which have national interest should be submitted with the proposed press release through command channels to HQDA for publication in the **Federal Register.** Coordinate with OCPA those FNSIs having national interest. Local publication of the FNSI will not precede the **Federal Register** publication. The text of the publication should be identical to the **Federal Register** publication. See § 651.32 of this regulation.

(d) For actions of only regional or local interest, the FNSI will be publicized in accordance with 40 CFR 1506.6(b) and this regulation. Distribution of the FNSI (30 days prior to initiation of the proposed action) should include any agencies, organizations, and individuals who have expressed interest in the project and others whom the proponent and preparers deem appropriate.

**§ 651.24 Public involvement.**

Environmental agencies, applicants and the public should be involved to the extent practicable in the preparation of an EA. When considering the "extent practicable" of public interaction (40 CFR 1501.4(b)), some of the factors to be weighed are:

(a) Magnitude of the proposed project/action.

(b) Extent of anticipated public interest.

(c) Urgency of the proposal.

(d) Any relevant questions of national security classification.

(Also see § 651.32 of this regulation.)

**§ 651.24a Public availability.**

Documents incorporated into the EA or FNSI by reference shall be available to the public for review. Where possible, use of public libraries is encouraged. Operating hours of the chosen depository should extend beyond normal business hours.

**§ 651.25 Existing EAs.**

Environmental Assessments are dynamic documents. To ensure that the setting, actions, and effects described remain substantially accurate, the proponent or installation Environmental Officer shall periodically review existing documentation (EIA [4] or EA) as an action continues. Preparation of a new environmental document is necessary if substantive changes have occurred.

## Subpart F—Environmental Impact Statement

**§ 651.26 Purpose and definition.**

An EIS is a public document whose primary purpose (40 CFR 1502.1) is to ensure that NEPA policies and goals are incorporated early into the programs and actions of Federal agencies. In the Army, an EIS is required to: "provide full and fair discussion of significant environmental impacts and shall provide a basis of consideration and inform decisionmakers and the public of the reasonable alternatives and actions which would avoid or minimize adverse impacts or enhance the quality of the human environment" (40 CFR 1502.1).

[4] Environmental Impact Assessment prepared under earlier CEQ Guidelines.

**§ 651.27 Criteria.**

An EIS is required when a proponent, preparer, or approving authority determines that the proposed action has the potential to:

(a) Significantly degrade environmental quality or public health or safety.

(b) Significantly affect historic or archaeological resources, public parks and recreation areas, wildlife refuge or wilderness areas, wild and scenic rivers, or aquifers. In addition, cause significant impacts to prime and unique farm lands, wetlands, floodplains, coastal zones, or ecologically or culturally important areas or other areas of unique or critical environmental concern require an EIS.

(c) Result in potentially significant and uncertain environmental effects or unique or unknown environmental risks.

(d) Significantly affect a species, or its habitat, listed or proposed for listing on the Federal list or endangered or threatened species.

(e) Have significant adverse affect on properties listed or meeting the criteria for listing in the National Register of Historic Places, or the National Registry of Natural Landmarks. (The National Park Service, U.S. Department of Interior maintains the National Register.)

(f) Either establish a precedent for future action or represent a decision in principle about a future consideration with significant environmental effects.

(g) Adversely interact with other actions with individually insignificant effects so that cumulatively significant environmental effects result.

(h) Involve the production, storage, transportation, use, treatment and disposal of hazardous or toxic materials which may have significant environmental impact.

**§ 651.28 Actions normally requiring an EIS.**

(a) Significant expansion of a military facility, such as a depot, munitions plant, or major training installation.

(b) Construction of facilities which have a significant effect on wetlands, coastal zones, or other areas of critical environmental concern.

(c) The disposal of nuclear materials, munitions, explosives, industrial and military chemicals, and other hazardous or toxic substances which have the potential to cause significant environmental impact.

(d) The life cycle development of new weapon systems where the action requires the construction and operation of new fixed facilities or the significant commitment of natural resources.

(e) Land acquisition, leasing or other actions which may lead to significant changes in land use.

(f) CONUS [5] realignment or stationing of a brigade or larger TOE [6] unit during peacetime (except where the only significant impact are socio-economic with no significant biophysical environmental impact).

(g) Closure of a major military installation (except where the only significant impacts are socio-economic with no significant biophysical environmental impact). "Major military installation" is defined in Chapter 2 of "Department of Defense Base Structure Report" as, "A continguous parcel of land with facilities and improvements thereon having a command and control organization providing a full range of BASOPS [base operations] functions in support of assigned missions." Compare with the definition of a "minor installation", which is "under the command of and receives resources support from the commander of another installation which is geographically distant."

(h) Training exercises conducted outside the boundaries of an existing military reservation where significant environmental damage might occur.

(i) Major changes in the mission of facilities either affecting areas of critical environmental concern or causing significant environmental impact.

**§ 651.29 Format of the EIS.**

(a) The format of the EIS must contain the following:

(1) Cover sheet.
(2) Summary.
(3) Table of Contents.
(4) Purpose of and need for the action.
(5) Alternatives considered, including proposed action.
(6) Affected environment.
(7) Environmental and socio-economic consequences.
(8) List of preparers.
(9) Distribution list.
(10) Index.
(11) Appendices (if any).

(b) The content of each section is discussed in greater detail in Appendix B.

**§ 651.30 Steps in preparing and processing an EIS (Figure 6-1).**

(a) *Notice of Intent (NOI).* Prior to preparation of an EIS, a NOI shall be published in the **Federal Register** and in newspapers with appropriate or general circulation in the area(s) potentially affected by the proposed action. The office of Legislative Liaison (OCIL) shall be notified by the ARSTAF proponent of pending EISs so that congressional coordination may be effected. After the NOI is published in the **Federal Register**, copies of the notice may also be distributed to agencies, organizations, and individuals, as the responsible official deems appropriate. Forward the NOI and the proposed press release to the ARSTAF proponent for **Federal Register** publication. The ARSTAF proponent will coordinate the NOI with HQDA (CEHSC-E, OCLL, and OCPA). A cover letter similar to Figure 6-2 shall accompany the NOI. An example NOI is at Figure 6-3. The NOI initiates the scoping process. Therefore, provide adequate response time for those wishing to comment on the NOI or participate in the scoping process. Subpart G discusses public participation requirements and options.

(b) *Lead and cooperating agency determination.* As soon as possible after the decision is made to prepare an EIS, the proponent, if necessary, will contact appropriate Federal, State and local agencies to identify lead or cooperating agency responsibilities concerning EIS preparation (40 CFR 1501.5). At this point, a public affairs plan must also be developed.

(c) *Scoping.* If determined that Army is the lead agency, the proponent will begin the scoping process decribed in 651.32a. Portions of the scoping process may take place prior to publication of the NOI.

(d) *Draft Environmental Impact Statement (DEIS) preparation and processing.* (1) *Preliminary DEIS.* Based on information obtained and decisions made during the scoping process, the proponent will prepare the preliminary DEIS. Forward 15 copies for ARSTAF review. The preliminary DEIS will be circulated by the proponent office to OASA (I&L), OACE, OTJAG, OTSG, OCPA, and other interested offices for review and comment. The preliminary DEIS is then returned to the preparer for revision as required, and printing of the DEIS for filing.

(2) *DEIS.* The Army proponent will advise the DEIS preparer of the number of copies to be forwarded for final ARSTAF review, and those for filing with EPA. Distribution may include interested Congressional delegations and committees, governors, national environmental organizations, the DOD and Federal agency headquarters, and other selected entities. The Army proponent will prepare the **Federal Register** Notice of Availability, the proposed news release, and the EPA filing letter for the signature of the Deputy for Environment, Safety, and

[5] Continental United States.
[6] Table of Organization and Equipment.

Occupational Health (DESOH), OASA (I&L). When the DEIS has been formally approved by HQDA, and the NOA has been published in the **Federal Register**, the HQDA staff proponent will notify the preparer to distribute the DEIS to the remainder of the distribution list. The list includes Federal, State, regional, and local agencies, private citizens, and local organizations.

(e) *Public review of DEIS.* (1) The length of the DEIS public comment period will normally be no less than 45 days from publication of the Notice of Availability in the Federal Register. If the statement is unusually long, circulate a summary with an attached list of locations where review of the entire DEIS may take place, (e.g., local public libraries). However, EIS distribution must include: (i) Any federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State, or local agency authorized to develop and enforce environmental standards.

(ii) The applicant, if any.

(iii) Any person, organization, or agency requesting the entire environmental impact statement.

(iv) In the case of a final environmental impact statement, any person, organization, or agency which submitted substantive comments on the DEIS.

(2) Hold public meetings or hearings on the DEIS in accordance with the criteria established in 40 CFR 1506.6(c) and (d) or for any other reason the proponent deems appropriate. News releases should be prepared and issued to publicize the meetings or hearings.

(f) *Response to comments.* Incorporate responses to comments in the DEIS by modification of the text and/or written explanation. Where possible, group similar comments for a common response. The preparer or a higher authority may make individual response, if considered desirable.

(g) *Prepare Final Environmental Impact Statement (FEIS).* If the changes in the DEIS are exclusively factual corrections, prepare and circulate only an errata sheet containing DEIS comments, responses, and changes. Nevertheless, the entire document and new cover sheet will be filed with EPA (40 CFR 1503.4(c)). If broader modifications are necessary, the proponent will prepare a preliminary FEIS incorporating these modifications. Processing the FEIS is essentially the same as the process outlined for the DEIS transmittal. However, there is no need to invite public comment during the 30 day post-filing waiting period (40 CFR 1503.1(b)).

(h) *Decision.* Make no decision on a proposed action until 30 days after EPA has published the NOA in the **Federal Register.** EPA publishes NOAs weekly. Those NOAs ready for EPA by Friday noon are published in the next Friday's **Federal Register.**

(i) *Record of Decision (ROD).* At the time of decision, or, if appropriate, its recommendation to Congress, the decisionmaker staff will prepare a ROD (40 CFR 1505.2, and 1505.3). This will become a part of the environmental documentation presented for the final decision. Forward a copy of the signed ROD to the Army Environmental Office. The ROD shall:

(1) State what the decision was.

(2) Identify all alternatives considered by the Army in reaching its decision, specifying the alternative or alternatives which were considered to be environmentally preferable. The Army may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. The ROD shall identify and discuss all such factors, including any essential considerations of national policy which were balanced by the Army in making its decision. Because economic and technical analysis are balanced with environmental analysis, the agency preferred alternative will not necessarily be the environmentally preferred alternative. The ROD shall state how those considerations entered into the final decision.

(3) State whether all practicable means to avoid or minimize environmental harm from the selected alternative have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized for any mitigation. (Also see Appendix D.)

(j) *Pre-decision referrals.* 40 CFR Part 1504 specifies procedures to resolve Federal agency disagreements on the environmental effects of a proposed action. Pre-decision referrals apply to interagency disagreement on a proposed action's potential unsatisfactory effects.

(k) *Changes during preparation.* If there are substantial changes in the proposed action, or significant new information relevant to environmental concerns, during the proposed action's planning process, the proponent shall prepare revisions or a supplement to any environmental document or prepare new documentation as necessary.

(l) *Mitigation.* All measures planned to minimize or mitigate expected significant environmental impacts shall be identified in the EIS. Implementation of the mitigation plan is the responsibility of the proponent (see Appendix D). The proponent will make available to the public, upon request, the status and results of mitigation measures associated with the proposed action.

(m) *Implementing the decision.* The Army may provide for monitoring to assure that its decisions are carried out and should do so in controversial cases or environmentally sensitive areas (see Appendix D). Mitigation and other conditions established in the EIS or during its review, and comment as part of the decision, shall be implemented by the lead agency or other appropriate consenting agency. The proponent shall:

(1) Include appropriate conditions in grants, permits or other approvals.

(2) Condition funding of actions on mitigation.

(3) Upon request, inform cooperating or commenting agencies on the progress in carrying out adopted mitigation measures which they have proposed and which were adopted by the agency making the decision.

(4) Upon request, make the results of relevant monitoring available to the public and Congress.

BILLING CODE 3710-08-M

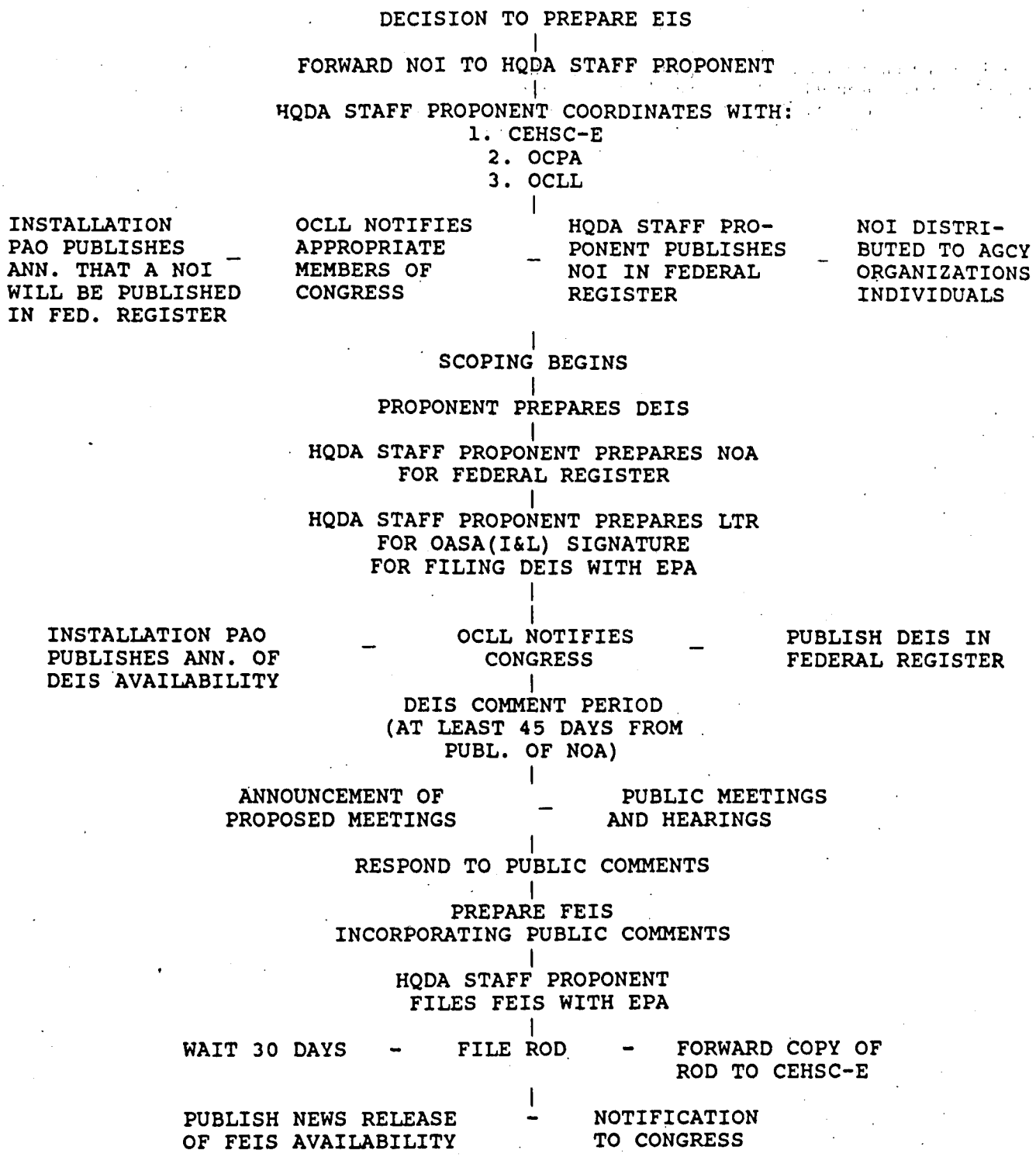


FIGURE 6-1 STAFFING PROCESS OF AN EIS



BILLING CODE 3710-08-C

Director,
*Office of the Federal Register, National Archives and Records Service, 1100 L Street NW., Washington, DC 20408.*

Dear sir: The attached Notice of Intent is submitted for publication in the Notice Section of the Federal Register.

Please publish this Notice of Intent in the earliest edition of the Federal Register possible. This notice is required for the Department of Army to perform its military mission and comply with the National Environmental Policy Act and the President's Council on Environmental Quality regulations.

Please bill this to charge code 3710–08–M.

Sincerely,

Lewis D. Walker,

*Deputy for Environment, Safety and Occupational Health OASA (I&L).*

1 encl. (3 copies).

CC: HQDA (SAIL-DESOH); HQDA (CEHSC-E); HQDA (Staff Proponent).

**Notes:** 3 Originals must be signed. The charge code 3710–08–M must appear in the letter.

## Figure 6–2—Sample NOI Transmittal Letter

3710–08–M

**Department of Army Notice of Intent**

To prepare a Draft Environmental Impact Statement (DEIS) for proposed barracks construction, at Fort _____, California.

Agency: DOD, US Army, Fort_____, California.

Summary: Proposed Action: A series of three barracks are proposed for construction at Fort _____, California in order to provide adequate housing for bachelor enlisted personnel assigned to the installation. These facilities are proposed to replace existing substandard facilities for personnel who currently live in expensive rental units within the community or in inadequate quarters on the installation. The inadequate quarters are deficient in seismic design and do not meet DOD standards for privacy, space, or security. The requirements for these projects are not the result of new or expanded missions. The location of the proposed barracks is between M and N Streets on Wisconsin Avenue.

Alternatives:

a. No Action
b. Rehabilitation of existing facilities
c. Alternate site locations

Scoping Process: Comments received as a result of this notice will be used to assist the Army in identifying potential impacts to the quality of the environment. Individuals or organizations may participate in the scoping process by written comment or by attending a scoping meeting to be held on May 23, 1987, 8 PM, at the Norwood Avenue Elementary School, 123 Norwood Avenue. Written comments may be forwarded to: Commander, US Army Engineer School, Attention: Director of Facilities Engineering, Fort _____, California. Comments and suggestions should be received not later than 15 days following the public scoping meeting to be considered in the DEIS. Questions regarding this proposal may contact Ms. Jane McIntyre, (916) 555–9876.

Lewis D. Walker,

*Deputy for Environment, Safety and Occupational Health OASA (I&L).*

## Figure 6–3—Sample Notice of Intent

### § 651.31 Existing EISs.

A newly proposed action must be the subject of a separate EIS. The proponent may extract and revise the existing environmental documents in such a way as to bring them completely up to date, in light of the new proposals. Such a revised EIS shall be prepared and processed entirely under the provisions of this regulation.

### § 651.31a Major Command (MACOM) processing of an EIS.

In certain cases where the scope of the EIS is limited, the ARSTAF proponent may authorize a specific unit to process an EIS.

(a) *Notice of Intent (NOI).* When the NOI is forwarded to the ARSTAF proponent (§ 651.30a), that proponent may determine that the unit should accomplish EIS processing. The ARSTAF proponent will consult with the Army Environmental Office, who will gain approval from DESOH. Proponent will return the NOI with any comments and a letter authorizing the unit to process the EIS in accordance with the guidance in this Section. The unit is responsible for preparation of the NOI, proposed news release, and a transmittal letter as described in Figure 6–1, and will forward both to the Army Environmental Office. After a review to ensure acceptability of the document, the OASA (I&L) will forward the NOI to the **Federal Register.**

(b) *Preliminary DEIS.* When the preliminary DEIS is staffed at the unit Headquarters, copies will be provided for concurrent review to the following HQDA elements to insure that HQDA interposes no objection: JALS–RL, OGC, OCPA, OCLL, DASG–PSP–E, and CEHSC–E, and the ARSTAF proponent.

(c) *EIS.* The unclassified portions of the DEIS and FEIS will be filed with the EPA Federal Activities Office by forwarding five copies with a transmittal letter as described in Figure 6–4. An additional five copies will be sent to the applicable EPA regional office for its review of the proposed action. Forward one copy to OSD (Figure 6–5). Distribution of copies for HQDA will be the same as for the preliminary DEIS. Coordinate copies for Congressional delegations and committees with the HQDA (OCLL) to meet Congressional notification procedures. Remaining distribution is for interested governors, Federal agency headquarters, national environmental organizations, regional, state and local agencies and organizations, and interested private citizens. The proponent is responsible for developing the distribution list; advice is available from the Army Environmental Office. A Notice of Availability may be published in the **Federal Register** by forwarding the notice, a proposed news release, and a transmittal letter by the same method used for the NOI.

(d) *Record of Decision (ROD).* At the time of decision, a ROD will be prepared (40 CFR 1505.2 and 1505.3). A copy of the ROD will be provided to HQDA (CEHSC–E).

Director,
*Office of Federal Activities, U.S. Environmental Protection Agency, Room 2119, West Tower, Waterside Mall, Washington, DC 20460.*

Dear Sir: Enclosed are five (5) copies of the Draft Environmental Impact Statement (DEIS), Proposal to Construct Barracks at Fort _____, California.

These copies are forwarded for filing in accordance with the Council on Environmental Quality regulations for implementing the provisions of the National Environmental Policy Act (40 CFR Part 1500–1508).

Lewis D. Walker,

*Deputy for Environment, Safety and Occupational Health OASA (I&L).*

1 Enclosure (5 copies).

**Note.**—DEISs and the accompanying NOA reaching EPA by noon Friday will be published in the **Federal Register** the following Friday. Failure to deliver documents to EPA by Friday noon will result in an additional one week delay.

## Figure 6–4—Sample Letter of Transmittal of DEIS to EPA

Memorandum For: Secretary of Defense, Production and Logistics (P&L), Washington, DC 20301

Subject: Availability of Draft Environmental Impact Statement

In accordance with Department of Defense Directive 6050.1, Environmental Considerations in DOD Actions, attached is one (1) copy of the Draft Environmental Impact Statement (DEIS), Proposal to Construct Barracks at Fort _____, California.

Lewis D. Walker,

*Deputy for Environment, Safety and Occupational Health OASA (I&L).*

1 Enclosure as—

**Figure 6-5—Sample letter of Transmittal of DEIS to OSD**

## Subpart G—Public Involvement and the Scoping Process

### § 651.32 General procedures.

(a) The requirement (40 CFR 1506.6) for public involvement recognizes that all potentially affected parties shall be involved, whenever practicable, when developing environmental documentation. This can be accomplished by developing a plan to address these requirements at the very beginning of the documentation process. (See also AR 360–5.) The plan shall include the following:

(1) Disseminate information to the local and installation communities through various means (e.g., news releases to local media, announcements to local citizens groups, Commander's letters) at each phase or milestone (more frequently if needed) of the project. Such information may be subject to Freedom of Information Act (FOIA) and Operations Security (OPSEC) review.

(2) Coordinate each phase or milestone (more frequently if needed) of the project with representatives of local, state, and Federal government agencies.

(3) Invite public comments and keep two-way communication channels open through various means as stated above.

(4) Keep Public Affairs Officers at all levels informed.

(b) When an EIS is being prepared, public involvement is a requisite element of the scoping process (40 CFR 1501.7(a)(1).

(c) Preparation of EAs shall incorporate public involvement processes whenever appropriate (40 CFR 1506.6).

(d) Persons and agencies to be consulted include:

(1) Municipal, township, and county elected and appointed officials.

(2) State, county, and local government officials and administrative personnel whose official duties include responsibility for activities or components of the affected environment related to the proposed Army action.

(3) Local and regional administrators of other Federal agencies or commissions which may either control resources potentially affected by the proposed action (e.g., Fish and Wildlife Service) or who may be aware of other actions by different Federal agencies whose effects must be considered with the proposed Army action (e.g., General Services Administration).

(4) The members of identifiable population segments within the potentially affected environments, whether or not they have clearly identifiable leaders or an established organization (e.g., farmers and ranchers, homeowners, small business owners, Indian tribes).

(5) Members and officials of those identifiable interest groups of local or national scope which may have interest in the environmental effects of the proposed action or activity (e.g., hunters and fishermen, Isaak Walton League, Sierra Club, Audubon society).

(6) Any person or group which has specifically requested involvement in the specific action or similar actions.

(e) The public involvement processes and procedures by which participation may be solicited include the following:

(1) Direct individual contact—identifies persons expected to express an opinion and participate in later public meetings. Direct contact may also identify the preliminary positions of such persons on the scope of issues which the EIS will address. Such limited contact may suffice for all required public involvement, when the expected environmental effect is of very limited scope.

(2) Small workshops or discussion groups.

(3) Larger public gatherings—held after some formulation of the potential issues. Invite the public to express its views on the proposed courses of action. Receive public suggestions or alternative courses of action not already identified. These gatherings need not be formal public hearings.

(4) Identify and apply other processes and procedures to accomplish the appropriate level of public involvement.

(f) The meetings described above should not be public hearings in the early stages of evaluating a proposed action. Public hearings do not substitute for the full range of public involvement procedures under the purposes and intent of § 651.32(a).

(g) Perform public surveys or polls to identify public opinion of by a proposed action (chapter 10, AR 335–15).

### § 651.33 Scoping

(a) *Purpose.* The scoping process, required for EIS preparation (40 CFR 1501.7), should aid the proponent in determining the scope and significant issues related to the proposed action. The process requires appropriate public participation immediately following publishing the Notice of Intent in the **Federal Register.** It is Army policy that EISs for legislative proposals significantly affecting the environment go through scoping unless extenuating circumstances make it impractical.

(b) *Scoping procedures.* Scoping procedures fall into preliminary, public interaction, and final phases.

### § 651.33a Scoping—Preliminary phase.

The proponent agency or office identifies as early as possible, how it will accomplish scoping and with whose involvement. Key points of this preliminary phase will be identified or briefly summarized as appropriate in the NOIs. The proponent will:

(a) Develop a draft scope for the EIS which identifies issues to be analyzed.

(b) Identify the office or person(s) responsible for matters related to the scoping process. If these office(s) or person(s) are not the same as the proponent of the action, make that distinction.

(c) Identify the lead and cooperating agency, if already determined (40 CFR 1501.5–6).

(d) Identify the method by which the agency will invite participation of affected parties. Also, the proponent may identify a tentative list of the affected parties to be notified.

(e) Identify the proposed method for accomplishing the scoping procedure.

(f) Indicate the relationship between the timing of the preparation of environmental analyses and the proponent's tentative planning and decision-making schedule including:

(1) The scoping process itself;

(2) Collecting or analyzing environmental data, including studies required of cooperating agencies;

(3) Preparation of DEISs and final FEISs;

(4) Filing of the ROD;

(5) Taking the action; and

(6) For a programmatic EIS, preparing a general expected schedule for future specific implementing actions which will involve separate environmental analysis.

(g) If applicable, identify the extent to which the EIS preparation process is exempt from any of the normal procedural requirements of this regulation, including scoping.

### § 651.33b Scoping—Public interaction phase.

(a) During this portion of the process, the proponent will invite comments from all affected parties and respondents to the NOI to assist in development of issues for detailed discussion in the EIS. Assistance in identifying possible participants is available from the Army Environmental Office.

(b) In addition to the affected parties identified above, participants should include the following:

(1) Technical representatives of the proponent. Such persons must be able to describe for other participants the technical aspects of the proposed action and alternatives.

(2) One or more representatives of any Army-contracted consulting firm(s), if one has been retained to participate in writing the EIS or providing reports which the Army will directly use to create substantial portions of the EIS.

(3) Experts in various environmental disciplines, if any area where impacts are foreseen is not already represented among the other scoping participants.

(c) In all cases, provide the participants with the information developed during the preliminary phase and as much of the following information as may be available:

(1) A brief description of the environment at the affected location. When descriptions for a specific location are not available use general descriptions of the probable environmental effect. Also include the extent to which the environment has been modified or affected in the past.

(2) A description of the proposed alternatives. The description will be sufficiently detailed to enable evaluation of the range of impacts which may be caused by the proposed action and alternatives. The amount of detail that is sufficient will depend on the stage of the development of the proposal, its magnitude, and its similarity to other actions with which participants may be familiar.

(3) A tentative identification of: "* * * any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration" (40 CFR 1501.7(a)(5)).

(4) Any additional scoping issues or limitations on the EIS, if not already described during the preliminary phase.

(d) The public involvement may begin with the Notice of Intent to publish an EIS. The NOI may indicate when and where a scoping meeting will take place and whom to contact to receive preliminary information. The purpose of the scoping meeting is to be an informal public meeting. It is a working session where the gathering and evaluation of information relating to potential environmental impacts can proceed.

(e) Starting with the above information, the person conducting the scoping process will use input from any of the involved or affected parties. This will aid in developing the conclusions. The proponent determines the final scope of the EIS. If the proponent chooses not to require detailed treatment of significant issues or factors in the EIS, in spite of relevant technical or scientific objections by any participant to the contrary, the proponent will clearly identify (in the Environmental Consequences section of the EIS) the criteria which were used to eliminate such factors from detailed consideration.

**§ 651.33c Scoping—The final phase.**

(a) The scope used in the preparation of DEIS consists of the determinations made by the proponent during and after the public interaction phase of the process, as follows:

(1) The scope and the significant issues for detailed analysis in the EIS (40 CFR 1501.7(a)(2)). To determine the scope of EISs, the proponent will consider three types of actions, three types of alternatives, and three types of impacts.

(i) The three actions (other than unconnected single actions) include:

(A) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they: Automatically trigger other actions which may require EISs; cannot or will not proceed unless other actions are taken previously or simultaneously; are interdependent parts of a larger action and depend on the larger action for their justification.

(B) Cumulative actions, when viewed with other proposed actions, have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(C) Similar actions, which have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the EIS. It should do so when the best way to assess such actions is to treat them in a single EIS.

(ii) The three alternatives are:

(A) No action;

(B) Other reasonable courses of action;

(C) Mitigation measures (not in the proposed action).

(iii) The three types of impacts include:

(A) Direct;

(B) Indirect;

(C) Cumulative.

(2) Identification and elimination from detailed study of issues which are not significant or which have been covered by prior environmental review. This narrows the discussion of these issues to a brief presentation of why they will not have a significant effect on the human environment. It may also provide a reference to their coverage elsewhere (40 CFR 1501.7(a)(3)).

(3) Allocation of assignments for preparation of the EIS among the lead and any cooperating agencies, with the lead agency retaining responsibility for the statement (40 CFR 1501.7(a)(4)).

(4) Indication of any public EAs and other EISs, prepared by the Army or another Federal agency, related to, but not part of, the EIS under consideration (40 CFR 1501.7(a)(5)).

(5) Identification of any other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with the EIS (40 CFR 1501.7(a)(6)).

(b) As part of the scoping process the lead agency may:

(1) Set time limits, as provided in § 651.11(b), if they were not already indicated in the preliminary phase.

(2) Prescribe overall page limits to the EIS in accordance with the CEQ regulations which emphasize conciseness.

(c) All determinations reached by the proponent during the scoping process will be clearly conveyed to the preparers of the EIS in a Scope of Statement. The Scope of Statement shall be made available to participants in the scoping process and to other interested parties on request. Any conflicts on issues of a scientific or technical nature which arise between the proponent and scoping participants, cooperating agencies, other Federal agencies, or the preparers of the document, will be identified during the scoping process, and will be resolved or discussed by the proponent in the draft EIS.

**§ 651.33d Aids to information gathering.**

The proponent may use or develop graphic or other innovative methods to aid information gathering, presentation, and transfer during the three scoping phases. These include methods for presenting preliminary information to scoping participants, obtaining and consolidating input from participants, and organizing its own determinations on scope for use during preparation of the DEIS.

**§ 651.33e Modifications of the scoping process.**

(a) If there is a lengthy period between a decision to prepare an EIS and the time of preparation, the proponent will initiate the NOI at a reasonable time in advance of preparation of the DEIS. The NOI shall state any tentative conclusions regarding the scope of the EIS made prior to publication of the NOI. Allow reasonable time for public participation before the proponent makes any final decisions or commitments on the EIS.

(b) The proponent of a proposed action may use scoping during preparation of environmental review documents other than EIS, if desired. The proponent may use the above procedures, or may develop modified procedures at his/her discretion.

## Subpart H—Environmental Effects of Major Army Actions Abroad

### § 651.34 General.

Protection of the environment is an Army priority, no matter where the installation is located. The Army is committed to pursuing an active role in addressing environmental quality issues in our relations with neighboring communities and assuring that consideration of the environment is an integral part of all decisions. Environmental effects of actions that affect the global commons require environmental documentation. See enclosures 1 and 2 of DOD Directive 6050.7 (Appendices E and F). These relate to environmental effects abroad of major military actions.

### § 651.35 Purpose.

This subpart states Army policy, assigns responsibilities, and establishes procedures for review of environmental effects abroad of major Army actions. It is a requirement of Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions," dated 4 January 1979.

### § 651.36 Applicability.

This subpart applies to HQDA and Army agencies' actions that would significantly affect the quality of the human environment outside the United States.

### § 651.37 Definitions.

(a) *Foreign nations* means any geographic area (land, water, and airspace) that is under the jurisdiction of one or more foreign governments. It also refers to any area under military occupation by the United States alone or jointly with any other foreign government. Also included is any area that is the responsibility of an international organization of governments. "Foreign nation" includes contiguous zones and fisheries zones of foreign nations as well. "Foreign government" in this context includes government regardless of recognition by the United States, political factions, and organizations that exercise governmental power outside the United States.

(b) *Global commons* are geographical areas outside the jurisdiction of any nation. They include the oceans outside territorial limits and Antarctica. Global commons do not include contiguous zones and fisheries zones of foreign nations.

### § 651.38 Policy.

Army agencies shall:

(a) Act with care in the global commons. All the nations of the world share the stewardship of these areas. Take account of environmental considerations when acting in the global commons in accordance with the procedures set out in Appendix E.

(b) Act with care within the jurisdiction of a foreign nation. Respect treaty obligations and the sovereignty of other nations. Exercise restraint in applying United States laws within foreign nations unless Congress has expressly provided otherwise. Army will evaluate environmental considerations in accordance with Appendix F when the proposed action could affect the environment of a foreign nation.

(c) Coordinate with the Department of State on formal communications with foreign governments concerning environmental agreements and other formal arrangements with foreign governments. Consult with the Department of State regarding use of additional exemptions from this directive as specified in paragraph C.3.b of Appendix F. Coordinate and consult with the Department of State through the Assistant Secretary of Defense (International Security Affairs).

### § 651.39 Responsibilities.

(a) Army agencies that control actions abroad (as defined by this regulation) will:

(1) Ensure that regulations and other major policy issuances receive a review for consistency with Executive Order 12114, DOD Directive 6050.7, and this regulation.

(2) Consult with ARSTAF (DAMO-SSM) on significant or sensitive actions, or decisions affecting relations with other nations.

(b) The ASA (I&L):

(1) Serves as the Secretary of the Army's responsible official for environmental matters abroad.

(2) Maintains liaison with ASD (P&L) on matters concerning EO 12114, DOD Directive 6050.7, and this regulation.

(3) Coordinates actions with other Secretariat offices as appropriate.

(c) The Chief of Engineers:

(1) Serves as Army staff proponent for implementation of EO 12114, DOD Directive 6050.7, and this regulation.

(2) Applies the provisions of this regulation in the planning and execution of overseas construction activities where appropriate in light of applicable statutes and Status of Forces Agreements (SOFAs).

(d) Deputy Chief of Staff for Operations and Plans:

(1) Serves as the focal point on the Army Staff for integrating environmental considerations required by this chapter into Army plans and activities. Emphasis is on those reasonably excepted to have widespread, long-term, and severe impacts on the global commons or the territories of foreign nations.

(2) Consults with Foreign Military Rights Affairs of ASD (ISA) on significant or sensitive actions affecting relations with another nation.

(e) The Judge Advocate General, in coordination with the Office of the General Counsel, shall provide advice and assistance concerning the requirements of EO 12114 and DOD Directive 6050.7.

(f) The Chief of Public Affairs shall provide advice and assistance as necessary.

(g) Army agencies shall:

(1) Prepare and consider environmental documents for proposed actions required by this regulation.

(2) Ensure that regulations and other policy issuances be subject to review for consistency with this regulation.

(3) Designate a single point of contact for matters regarding this regulation.

(4) Consult with ARSTAF (DAMO-SSM) on significant or sensitive actions affecting relations with another nation.

### § 651.40 Implementation guidance.

(a) Environmental documents prepared under the provisions of this subpart should use the format for such documents found in Appendix F. Otherwise, use a format appropriate in light of the applicable statutes and SOFAs.

(b) Submit nominations for inclusions in the list of Army Categorical Exclusions to HQDA (through DAMO-SSM to CEHSC-E).

### Appendix A—Categorical Exclusions

*Screening Questions*

A Categorical Exclusion is a category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required. A Categorical Exclusion may be used only when the criteria of §§ 651.15 and 651.16 have been applied and EACH of the following questions can be answered affirmatively:

1. This action is not a major federal action significantly affecting the quality of the human environment.

2. There are minimal or no individual or cumulative effects on the environment as a result of this action.

3. There is no environmentally controversial change to existing environmental conditions.

4. There are no extraordinary conditions associated with this project.

5. This project does not involve the use of unproven technology.

6. This project involves no greater scope or size than is normal for this category of action.

7. There is no potential of an already poor environment being further degraded.

8. This action does not degrade an environment which remains close to its natural condition.

9. There are no threatened or endangered species (or critical habitat), significant archaeological resources, National Registered or National Register eligible historical sites, or other statutorily protected resources.

10. This action will not adversely affect prime or unique agricultural lands, wetlands, coastal zones, wilderness areas, aquifers, floodplains, wild and scenic rivers, or other areas of critical environmental concern.

*List of Categorical Exclusions*

1. Normal personnel, fiscal, and administrative activities involving military and civilian personnel (recruiting, processing, paying, and records keeping).

2. Law and order activities performed by military police and physical plant protection and security personnel, excluding formulation and/or enforcement of hunting and fishing policies or regulations which differ substantively from those in effect on surrounding non-Army lands.

3. Recreation and welfare activities not involving off-road recreational vehicle management.

4. Commissary and PX operations, except where hazardous material is stored or disposed.

5. Routine repair and maintenance of buildings, roads, airfields, grounds, equipment, and other facilities, to include the lay away of facilities, except when requiring application or disposal of hazardous or contaminated materials.

6. Routine procurement of goods and services, including routine utility services.

7. Construction that does not significantly alter land use, provided the operation of the project when completed would not of itself have a significant environmental impact; this includes grants to private lessees for similar construction. (REC REQUIRED)

8. Simulated war games and other tactical and logistical exercises without troops.

9. Training entirely of an administrative or classroom nature.

10. Storage of materials, other than ammunition, explosives, pyrotechnics, and nuclear, and other hazardous/toxic materials.

11. Operations conducted by established laboratories within enclosed facilities where:

a. All airborne emissions, waterborne effluents, external radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing Federal, state, and local laws and regulations; and

b. No animals which must be captured from the wild are used as research subjects (excluding reintroduction projects). (REC REQUIRED)

12. Developmental and operational testing on a military installation, where the tests are conducted in conjunction with normal military training or maintenance activities so that the tests produce only incremental impacts, if any; and provided that the training/ maintenance activities have been adequately assessed, where required, in other Army environmental documents. (REC REQUIRED)

13. Routine movement of personnel; routine handling and distribution of non-hazardous and hazardous materials in conformance with DA, EPA, Department of Transportation, and state regulations.

14. Reduction and realignment of civilian and/or military personnel which fall below the thresholds for reportable actions as prescribed by statute or AR 5–10. (REC REQUIRED)

15. Conversion of commercial activities (CA) to contract performance of services from in-house performance under the provisions of DOD Directive 4100.15.

16. Preparation of regulations, procedures, manuals, and other guidance documents that implement, without substantive change, the applicable HQDA or other federal agency regulations, procedures, manuals, and other guidance documents which have been environmentally evaluated.

17. Acquisition, installation, and operation of utility and communication systems, data processing, cable and similar electronic equipment which use existing rights of way, easements, distribution systems, and facilities.

18. Activities which identify, or grant permits to identify, the state of the existing environment (e.g., inspections, surveys, investigations) without alteration of that environment or capture of wild animals.

19. Deployment of military units on a TDY basis where existing facilities are used and the activities to be performed have no significant impact on the environment. (REC REQUIRED)

20. Grants of easements for the use of existing rights-of-way for use by vehicles; electrical, telephone, and other transmission and communication lines; transmitter and relay facilities; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and facilities; and for similar public utility, and transportation uses. (REC REQUIRED)

21. Grants of leases, licenses, and permits to use existing Army controlled property for non-Army activities, provided there is an existing land-use plan which has been environmentally assessed, and the activity will be consistent with the plan. (REC REQUIRED)

22. Grants of consent agreements to use a government-owned easement in a manner consistent with existing Army use of the easement; disposal of excess easement areas to the underlying fee owner. (REC REQUIRED)

23. Grants of licenses for the operation of telephone, gas, water, electricity, community television antenna, and other distribution systems normally considered as public utilities. (REC REQUIRED)

24. Transfer of real property administrative control within the Army, to another military department, or other federal agency, including the return of public domain lands to the Department of Interior and reporting of property available for outgranting; and grants of leases, licenses, permits, and easements for use of excess or surplus property without significant changes in land use. (REC REQUIRED)

25. Disposal of uncontaminated buildings and other improvements for removal off-site. (REC REQUIRED)

26. Studies that involve no commitment of resources other than manpower. (REC REQUIRED)

27. Study and test activities within the procurement program for Military Adoption of Commercial Items for items manufactured in the U.S. (REC REQUIRED)

28. Proposed actions determined to be of such an environmentally insignificant nature as to not meet the threshold for requiring an Environmental Assessment.[1] (REC REQUIRED)

29. Development of TO&E documents, no fixed location or site.

30. Grants of leases, licenses, and permits to use DA property for or by another governmental entity when such permission is predicated upon compliance with the National Environmental Policy Act. (REC REQUIRED)

**Appendix B—Contents of the EIS**

This appendix is intended to supplement 40 CFR 1502.10 through 1502.18.

1. *Cover Sheet.* The cover sheet shall not exceed one page (40 CFR 1502.11) and shall include:

a. A cover sheet preceded by a protective cover sheet that contains the following statement: "The material contained in the attached (final or draft) Environmental Impact Statement is for internal coordination use only and may not be released to non-Department of Defense Agencies or individuals until coordination has been completed and the material has been cleared for public release by appropriate authority." This sheet will be removed prior to filing the document with EPA.

b. A list of responsible agencies including the lead agency and any cooperating agency.[1]

c. The title of the proposed action that is the subject of the statement (and, if appropriate, the titles of related cooperating agency actions), together with state(s) and county(ies) (or other jurisdiction as applicable) where the action is located.

d. The name, address, and telephone number of the person at the agency who can supply further information, and, as appropriate, the name and title of the major

[1] The use of CX A–28 requires the signature of both the Installation Environmental Coordinator and the local or command Office of the Staff Judge Advocate on the Record of Environmental Consideration.

[1] The EIS is an Army document, not a contractor's document. Contractors who assist in the EIS preparation are not listed here but in the list of preparers.

approval authority(ies) in the command channel through HQDA staff proponent.

e. A designation of the statement as a draft, final, or draft or final supplement.

f. A one-paragraph abstract of the statement that should describe only the need for the proposed action, alternative actions, and the significant environmental consequences of the proposed action and alternatives.

g. The date by which comments must be received (computed in cooperation with the EPA). See example cover sheet, Figure B–1.

Lead Agency: Department of the Army, TRADOC.

Cooperating Agency (ies): (if any) U.S. Forest Service, U.S. Department of Agriculture.

Title of the Proposed Action: Development of Training Area, Fort Pleasant, Maryland.

Affected Jurisdiction: State of Maryland; Smith, Taylor and Jones Counties.

Preparer/Proponent Approved (or Reviewed by): Name, address and telephone number, name and title of proponent. (i.e., Installation Commander or Program Manager)

Reviewed by: Name and Title of the Environmental Coordinator

Approved by: Name and Title of any Intermediate Proponent (i.e., MACOM Commander); Name and title of Army Staff Proponent (i.e., Director of program affected by EIS).

Abstract: One paragraph summary.

Review Comment Deadline: (Computed in cooperation with EPA guidance).

Figure B–1—Example Cover Sheet

2. *Summary.* The summary shall stress the major conclusions of environmental analysis, areas of controversy, and issues yet to be resolved. It should list all Federal permits, licenses, and other entitlements that must be obtained prior to proposal implementation. Further, a statement of compliance with the requirements of other Federal environmental protection laws will be included (40 CFR 1502.25).

In order to simplify consideration of complex relationships, every effort will be made to present the summary of alternatives and their impacts in a graphic format with narrative. This summary should not exceed 10 pages.

3. *Table of Contents.* This section will provide for the table of contents, list of figures and tables, and a list of all referenced documents, including a bibliography of references within the body of the EIS. The table of contents should have enough detail so that searching for sections of text is not difficult.

4. *The Purpose of and Need for the Action.* This section should clearly state the nature of the problem and discuss how the proposed action or range of alternatives would solve the problem. This section is designed specifically to call attention to the benefits of the proposed action. If a cost/benefit analysis has been prepared for the proposed action, it may be included here, or attached as an appendix and referenced here. This section shall briefly give the relevant background information on the proposed action and summarize its operational, social, economic, and environmental objectives.

5. *Alternatives Considered.* This section presents all reasonable alternatives and their environmental impacts. An examination of each specific proposal in clear terms is required. This section should be written in simple, non-technical language for the lay reader. A "no action" alternative will be included (40 CFR 1502.14(d)). For actions other than construction, the term "no action" is often misleading because a continuation of the status quo is implicit. Required in this section is an examination of the status quo. A preferred alternative need not be identified in the DEIS; however, a preferred alternative generally must be included in the FEIS (40 CFR 1502.14(e)).

A simple title or a letter or number symbol may be used for each of the discussed alternatives (e.g., "alternative A"). Reference to the title or designation will be continued uniformly throughout the document in the appropriate sections.

The environmental impacts of the alternatives will be presented in comparative form, thus sharply defining the issues and providing a clear basis for choice among the options that are provided the decisionmaker and the public (40 CFR 1502.14). The information should be summarized in a brief, concise manner. The use of tabular or matrix format(s) is encouraged to provide the reviewer with an at-a-glance review. In sum, the following points are required:

a. A description of all reasonable alternatives including the preferred action, including alternatives beyond DA jurisdiction (40 CFR 1502.14(c)), and the "no action" alternative.

b. A comparative presentation of the environmental consequences of all reasonable alternative actions including the preferred alternative.

c. A description of the mitigation measures nominated for incorporation into the proposed action and alternatives, as well as mitigation measures available but not incorporated.

d. Listing of any alternatives that were eliminated from detailed study. Briefly discuss the reasons for which each alternative was eliminated.

6. *Affected Environment(s).* This section will contain information about existing conditions in the affected area(s) necessary to understand the potential effects of the alternatives under consideration (40 CFR 1502.15). Environments created by the implemented proposal will be included as appropriate. Affected elements could include, for example, biophysical characteristics (ecology, water quality); land use and land use plans; architectural, historical, and cultural amenities; utilities and services; and transportation. This section will not be encyclopedic. It will be written clearly and the degree of detail for all points covered will be related to the significance and magnitude of expected impacts. Elements not impacted by any of the alternatives need only be presented in summary form or referenced.

7. *Environmental and Socio-Economic Consequences.* This section of the EIS forms the scientific and analytic basis for the summary comparison of effects in Part 5. The following will be discussed (40 CFR 1502.16):

a. Direct Effects and Their Significance. Include in the discussion the direct impacts on human health and welfare and on other forms of life and related ecosystems. Examples of direct effect might include noise from military helicopter operations or the benefits derived from the installation of wet scrubbers to meet air quality control standards.

b. Indirect Effects and Their Significance. Include here socio-economic impacts. Many Federal actions attract people to previously unpopulated areas and indirectly induce pollution, traffic congestion, and haphazard land environment. Conversely, other actions may disperse the existing population. Aircraft noise often affects future development patterns, and air pollution abatement operations may result in secondary water pollution problems.

c. Possible conflicts between the proposed actions and Federal, regional, state, and local (including Indian Tribe) land use plans, policies, and controls for the area(s) concerned. Compare the land use aspects of the proposed action, and discuss possible conflicts, such as siting an extremely noise activity adjacent to a residential area, leasing land for purposes inconsistent with state wildlife management, or creating conflicts with prime and unique farm land policies.

d. The environmental effects of alternatives, including the proposed action.

(1) Impacts of the alternatives, including a worst case analysis where there are gaps in relevent information or scientific uncertainty.

(2) Adverse environmental effects which cannot be avoided should the proposal be implemented. Include the relationship between short-term uses of the human environment and the maintenance and enhancement of long-term productivity. The section should discuss the extent to which the proposed action and its alternatives involve short-term vs. long-term environmental gains and losses. In this context, short-term and long-term do not refer to any rigid time period and should be viewed in terms of the environmentally significant consequences of the proposed action. Thus, "short-term" can range from a very short period of time during which an action takes place to the expected life of a facility.

e. Energy Requirements and Conservation Potential of Various Alternatives and Mitigation Measures. Consult the Energy Resource Impact Statement (AR 11–27), when applicable, to satisfy this requirement. Account for the energy consumption of each proposed alternative and associated economics. Discuss, where appropriate, the uses of renewable and nonrenewable energy resources. A discussion of conservation techniques which could attenuate energy consumption should also be discussed within this section—for example, the use of insultation for newly constructed family housing which would reduce the long-term consumption of fuel oil or natural gas.

f. Natural or Depletable Resource Requirements and Conservation Potential of Various Mitigation Measures. Include discussion of any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be

implemented. The term "resources" should include:

(1) Materials. Discuss materials in short supply (metals, wood, etc.), but do not include materials which are plentiful or have competitive alternatives (for example, aggregate or fill materials).

(2) Natural. Discuss the use of natural resources resulting in irrevocable effects such as ecosystem imbalance, destruction of wildlife, loss of prime and unique farm lands. Specifically include consumption of natural energy resources in short supply, such as oil or natural gas.

(3) Cultural. Discuss destruction of human interest sites, archaeological/historical sites, scenic views or vistas, or valued open space. Reiterate lasting socio-economic effects the proposed action might have on the surrounding community.

g. Urban Quality, Historic and Cultural Resources, and the Design of the Built Environment (including reuse and conservation potential of various alternatives and mitigation measures). Discuss the effects on adjacent neighborhoods and the city at large. Examine the effects on physical design features (also known as built environment) and resultant impacts on social interaction areas such as privacy, public opinion, personnel perceptions, and other aspects of the social environment. Review the reuse potential of existing building space and its time use allocation (usually referred to a time and spatial management). (Time and spatial management allows for conservation of energy and other resources by discouraging new construction and operation until all existing building and time allocations have been fully scrutinized for alternate reuse.)

h. Means to Mitigate Adverse Environmental Effects. Include mitigation not already included as part of the various alternatives. Also, specify mitigations that require action by other agencies or outside parties.

8. *List of Preparers.* The EIS shall list the names of its preparers, together with their qualifications (expertise, experience, professional disciplines) (40 CFR 1502.17). Include those people who were primarily responsible for preparing (research, data collection, and writing) the EIS or significant background or support papers, including basic components of the statement. Where possible, the persons who are responsible for a particular analysis, including analysis of background papers, shall be identified. If some or all of the preparers are contractors' employees, they may be identified as such. Identification of the firm which prepared the EIS is not, by itself, adequate to meet the requirements of this point. Normally, the list will not exceed two pages.

9. *Distribution List.* For the DEIS a list will be prepared indicating from whom review and comment is requested. The list will include public agencies and private parties or organizations. The FEIS will normally only list those who have commented or shown an interest in the proposed action.

10. *Index.* The index shall be an alphabetical list of topics in the EIS, especially of the types of effects induced by the various alternative actions. Reference may be made to either page number or paragraph number.

11. *Appendices.* If an agency prepares an appendix to an EIS, the appendix shall:

a. Consist of material prepared in connection with an EIS (as distinct from material which is not so prepared and which is incorporated by reference).

b. Consist only of material which substantiates any analysis fundamental to an impact statement.

c. Be analytic and relevant to the decision to be made.

d. Be circulated with the EIS or be readily available upon request.

**Appendix C—Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act**

(40 CFR Parts 1500–1508, 43 FR 55978–56007, November 29, 1978, as amended at 51 FR 15625, April 25, 1986.)

**Appendix D—Implementing a Monitoring Program [1]**

1. *Mitigation.* Mitigation of an environmental impact can take many forms. The 1978 CEQ regulations for implementing NEPA recognize five means of mitigating an environmental impact: (1) Avoiding the impact altogether by not taking a certain action or parts of an action, (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation, (3) rectifying the impact by repairing, rehabiliting or restoring the effect on the environment, (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, and (5) compensating for the impact by replacing or providing substitute resources or environments (40 CFR 1508.20). The intention of mitigation is to reduce the effects of the action on the environment. The following sections discuss the five means of mitigation.

a. *Avoidance.* This method avoids enviornmental impact by not performing certain activities, e.g., allowing tracked vehicles to cross only at designated improved stream crossings. This would reduce the effects on a stream resulting from random access, such as increased turbidity caused by bank erosion and bottom disturbance caused by the tracks.

b. *Limitation of action.* The extent of an impact can be reduced by limiting the degree or magnitude of the action (e.g., changing the firing time or the number of rounds fired on artillery ranges to reduce the noise impact on nearby residents). In the example given in paragraph 1a above, the number of authorized stream crossings would have been limited or minimized.

c. *Restoration of the environment.* This method restores the environment to its previous condition or better. Movement of troops and vehicles across vegetated areas often destroys vegetation. This impact can be mitigated by either reseeding or replanting the areas with native plants after the exercise.

d. *Preservation and maintenance operations.* This method designs the action so as to reduce adverse environmental effects. Examples including maintaining erosion control structures, using air pollution control devices, and encouraging car pools in order to reduce transportation effects such as air pollution, energy consumption and traffic congestion.

e. *Replacement.* This method replaces the resource or environment that will be impacted by the action. Replacement can occur in-kind or otherwise (e.g., replace deer habitat in the project area with deer habitat in another area; or, replace fisheries habitat with deer habitat.) This replacement can occur either on the site or impact or at another location. This type of mitigation is often used in water resources projects. For example, if an action were destroying some of the installation's best deer habitat, a potential mitigation would be developing another section of the installation into deer habitat. This is an example of an in-kind replacement at a different site.

2. *Identification of Mitigation Techniques.* Identifying and evaluating mitigation techniques involves using experts familiar with the predicted environmental impacts. A single mitigation measure will often alleviate several different impacts.

a. *Sources of information.* There are many potential sources of information concerning the mitigation of various environmental effects. Table D–1 lists sources of information available on-post. Several information sources are also available within the Department of the Army: the Army Environmental Hygiene Agency, the Major Command environmental office, the Army Environmental Office, Corps of Engineers research laboratories (e.g., Construction Engineering Research Laboratory, Wateways Experiment Station, and Cold Regions Laboratory), Huntsville Division, and the military assistance office in certain Districts. State agencies are another potential source of information. Appropriate points of contact within these agencies may be obtained from the installation environmental office.

**Table D–1—Potential Sources of Monitoring and Mitigation Expertise**

*Ecology*

Installation Environmental Specialist
Installation Wildlife Officer
Installation Forester
Installation Natural Resource Committee
Corps District Environmental Staff

*Health and Safety*

Installation Preventive Medicine Officer
Installation Safety Officer
Installation Hospital
Installation Mental Hygiene or Pyschiatry Officer
Chaplain's Office

*Air Quality*

Installation Environmental Specialist
Installation Preventive Medicine Officer

*Water Quality*

Installation Environmental Specialist
Installation Preventive Medicine Officer

[1] From: John Fittipaldi, et al., Handbook for Environmental Impact Analysis and Planning. Technical Report N–130, U.S. Army Construction Engineering Research Laboratory (CERL), October 1982, pp 133–143.

Corps District Environmental Staff

*Socioeconomics*

Personnel Office
Public Information Officer
Corps District Economic Planning Staff

*Earth Science*

Installation Environmental Specialist
Corps District Geotechnical Staff

*Land Use Impacts*

Installation Master Planner
Corps District Community Planners

*Noise*

Preventive Medicine Officer
Directorate of Engineering and Housing
Installation Master Planner

*Aesthetics*

Installation Landscape Architect
Corps District Landscape Architects

*Energy and Resource Conservation*

Installation Environmental Specialist

*Historic and Archaeological Resources*

Installation Environmental Specialist
Installation Historian or Architect
Corps District Archaeologist

Another source of these contracts is directories, such as CERL Technical Report N-40,[2] as discussed in Engineering Technical Note 79-6.[3] Ramifications/Mitigation statements from CERL's Environmental Impact Computer System (EICS) [4] are another potential source of information on mitigation procedures. Local interest groups may also be able to help identify potential mitigation measures.

b. *Example mitigation techniques.* Several different mitigation techniques have been used on military installations for a number of years. The following examples illustrate the variety of possible measures. There are maneuver restrictions in areas used extensively for tracked vehicle training. These restrictions are not designed to infringe on the military mission, but rather to reduce the amount of damage to the training area. Aerial seeding has been done on some installations to reduce erosion problems. Changing the time and/or frequency of operations has been used. This may involve changing the season of the year, the time of day, or even day of the week for various activities. This avoids noise impacts as well as aesthetic, transportation, and some ecological problems. Reducing the effects of construction has involved using techniques that keep heavy equipment away from protected trees and quickly reseeding areas after construction.

c. *Mitigation alternatives.* Army regulations require consideration of all practical mitigation alternatives. The emphasis is not on what can be theoretically accomplished, but on mitigations that can and will be attempted for each alternative.

(1) Practical mitigations are those that the proponent can accomplish within the project's constraints, e.g., manpower and money. Definition of practical measures must be at the installation level; what may be practical on one post or at one time may not be practical on another. A number of items determine what is practical, including military mission, manpower restrictions, cost, institutional barriers, technical feasibility, and public acceptance. Practicality does not necessarily insure that there will be no conflict among these items; it is rather the degree of conflict which determines practicality.

(2) All of the previous examples involved some amount of conflict in all of these areas. Although mission conflicts are inevitable, they are not insurmountable; therefore, the proponent should be cautious about declaring all mitigations impracticable and carefully consider any manpower requirements. This may be a greater restriction than military mission conflicts.

(3) There is no standard "rule of thumb" applicable to mitigation activities. The key point concerning both the manpower and cost constraints is that unless money is actually budgeted and manpower assigned, the mitigation does not exist. This will require coordination by the proponent office early in the process to allow enough time to get the mitigation activities into the budget cycle. If the mitigation is not funded on schedule with the action, the action can be judically stopped.

(4) Mitigations that do not fall directly within the definition of "practical" must still be considered, including those to be accomplished by other agencies. The proponent must coordinate with these agencies so that they can plan to obtain the necessary manpower and funds. Mitigations that were considered but rejected must be discussed, along with the reason for the rejection, within the EIS.

3. *Monitoring.* Monitoring is a way to examine an environmental mitigation. There are two basic types of monitoring: enforcing performance, and noting how effectively the mitigation reduces the environmental impact.

a. *Enforcement monitoring.* Enforcement monitoring insures that the mitigation is being performed as described in the environmental document. This includes making sure that mitigation requirements and penalty clauses are written into any necessary contracts. It also means making sure that these provisions are enforced. Any on-post mitigation must be budgeted for, scheduled, and any necessary manpower assigned before it can be considered a mitigation. Any changes required in post regulations must be completed and enforced. The actual mitigation (for example, aerial seeding of a training area) must be performed. Enforcement monitoring involves the monitoring of all these activities.

b. *Effectiveness monitoring.* Effectiveness monitoring measures the success of the mitigation effort and/or the environmental effect. This must be a scientifically based quantitative investigation. Generally, qualitative measurements are not acceptable. By the same token, it is not necessary to measure everything that may be affected by the action; it is only necessary to obtain enough information to judge the method's effectiveness.

4. *Establishing a Monitoring System.* Monitoring is an integral part of any mitigation system. Establishment of a monitoring system must involve all offices which will be involved in its implementation. When evaluating several different potential monitoring systems, the ability to perform the monitoring is the most critical factor. This means that manpower—both on-post and outside expertise—must be available. Sufficient funds must also be available for the monitoring process. Figures D-1 through D-3 illustrate the steps in establishing a monitoring system. Figure D-1 is designed to help select the type of monitoring system needed. Figure D-2 shows the responsibilities of the lead agency in establishing an enforcement monitoring program. Figure D-3 illustrates the steps necessary to establish an effectiveness monitoring program.

5. *Type of Monitoring Program.* AR 200-1 and other laws and regulations help determine the type of monitoring program needed. There are five basic considerations (figure D-1).

a. *Legal requirements.* Permits for some actions will require that a monitoring system be established (e.g., dredge and fill permits from the Corps of Engineers). These will generally require both enforcement and effectiveness monitoring programs.

b. *Protected resources.* These include Federal- or State-listed endangered or threatened species, important historic or archaeological sites (whether or not these are included on the National Register of Historic Places), wilderness areas, wild and scenic rivers, and other public or private protected resources. Private protected resources include areas such as Audubon Society Refuges, Nature Conservancy lands, or any other land that would be protected by law, if it were under government ownership, but is privately owned. If any of these resources are affected, an effectiveness and enforcement monitoring program must be undertaken in conjunction with the Federal, State, or local agency which manages that type of resource.

c. *Major environmental controversy.* If there is still controversy about the effect of an action or the effectiveness of a mitigation, an enforcement and effectiveness monitoring program must be undertaken. Controversy means not only scientific disagreement about the mitigation's effectiveness, but also public interest or debate.

d. *Mitigation outcome.* The probability of the mitigation's success must be carefully considered. The proponent must know if the mitigation has been successful elsewhere. The validity of the outcome should be confirmed by expert opinion. However, the proponent should note that a certain technique, such as artificial seeding with the natural vegetation, which may have worked successfully in one area, may not work in another.

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[2] R. Lacey, et al., Compendium of Administrators of Land Use and Related Programs, Technical Report N-40/ADA057226 (CERL, July 1978).

[3] Coordination with Federal and State Land Use Agencies, Engineer Technical Note 79-6 (Department of the Army, 8 February 1979).

[4] L.V. Urban, et al., Computer-Aided Environmental Impact Analysis for Construction Activities: User Manual, Technical Report E-50/ADA008988 (CERL, March 1975).

e. *Changed conditions.* The final consideration is whether any conditions, such as the environmental setting, have changed (e.g., a change in local land use around the area, or a change in project activities, such as increased amount of acreage involved or an increased number of troops being moved). Such changes will require preparation of a supplemental impact evaluation and additional monitoring. If none of these conditions are met (i.e., requirement by law, protected resources, no major controversy is involved, effectiveness of the mitigation is known, and the environmental or project conditions have not changed), then only an enforcement monitoring program is needed. Otherwise, both an enforcement and effectiveness monitoring program will be required.

6. *Enforcement Monitoring Program Development.* The development of an enforcement monitoring program is governed by who will actually perform the mitigation (figure D–2). Three different groups may actually perform the work: a contractor, a cooperating agency, or a lead agency (in-house). However, the lead agency is ultimately responsible for performing any mitigation activities.

a. *Contract performance.* Several provisions must be made in work to be performed by contract. The lead agency must insure that contract provisions include the performance of the mitigation activity and that penalty clauses are written into the contracts. It must provide for timely inspection of the mitigation measures and is responsible for enforcing all contract provision.

b. *Cooperating agency performance.* The lead agency must insure that if a cooperating agency performs the work, it understands its role in the mitigation. The lead agency must determine and agree upon how the mitigation measures will be funded. It must also insure that any necessary formal paperwork, such as cooperating agreements, is complete.

c. *Lead agency performance.* If the lead agency performs the mitigation, the proponent has several responsibilities: insuring responsibilities needed to perform the task; providing appropriate funding in the project budget; making arrangements for necessary manpower allocations; and making any necessary changes in the agency (installation) regulations (e.g., environmental or range regulations).

d. *Results.* In any case, whether the mitigation is performed by contract, by a cooperating agency, or by the lead agency, all results will be sent to the Public Affairs Office and the Environmental Office on post.

7. *Effectiveness Monitoring Program Development.* Effectiveness monitoring is the most difficult to establish (figure D–3). The responsible agent (e.g., the Director of Training) should coordinate this with the Environmental Office.

a. *Determination of what is to be monitored.* The first step in this type of monitoring program is to determine what must be monitored. This determination should be based on criteria discussed during the establishment of the system (i.e., the legal requirements, protected resources, area of controversy, known effectiveness, or changed conditions). Initially, this can be a very broad statement, such as reduction of impacts on a particular stream by a combination of replanting, erosion control devices, and range regulations.

b. *Finding expertise.* The next step is finding the expertise necessary to establish the monitoring system. The expertise may be available on-post; table D–1 lists potential sources on a military installation. If it is not available, it must be obtained from an outside source. Directories such as CERL Technial Report N–40 [5] may provide the needed information. In addition, local universities may have specialists and local interest groups who can identify experts within a particular field. This may be particularly helpful if a mitigation is considered controversial.

c. *Establishment of a program.* After a source of expertise is located, the program can be established, using five technical criteria. First, any parameters used must be measurable; i.e., the monitor must be quantitative, and it must be statistically sound. Second, a baseline study must be completed before the monitoring begins in order to identify the actual state of the system prior to any distrubance. Third, the monitoring system must have a control, so that it can isolate the effects of the mitigation procedures from effects originating outside the action. Fourth, the system's parameters and means of measuring them must be replicable. Finally, parameter results must be available in a timely manner so that the decision-maker can take any necessary corrective action before the effects are irreversible.

d. *Program management.* There are several program management considerations. First, not every mitigation has to be monitored separately. The effectiveness of several mitigation actions can be determined by one measurable parameter. For example, the turbidity measurement from a stream can include the combined effectiveness of mitigation actions such as reseeding, maneuver restrictions, and erosion control devices. However, if a method combines several parameters and a critical change is noted, each mitigation measurement must be examined to determine the problem.

e. *Initiation of program.* The next step is initiating the monitoring program. In most cases, a monitor should be established well before the action begins, particularly when biological variables are being measured and investigated. At this stage, any necessary contracts, funding, and manpower assignments must be initiated.

f. *Sample collection, data analysis, and coordination.* The next step in the monitoring program is sample collection and data analysis. A nontechnical summary of the data analaysis should be provided to the Public Affairs Office, which will handle routine information requests related to the program. Technical results from the anlaysis should be sent to the installation Environmental Office, which will coordinate them with the proponent. Other related coordination with concerned publics and other agencies, as arranged through development of the mitigation plan, will be handled through the Environmental Office.

g. *Continuation of program.* If the mitigations are effective, the monitoring should be continued. However, even if a noneffective result is obtained, a nontechnical summary should still be sent to the Public Affairs Office. The Environmental Office and the responsible group should reexamine the mitigation measures with the experts. The program may be either inadequacy of the mitigation measure, in how it is being performed, or in the monitoring. Once the problem is identified, the responsible group and the experts should determine whether more detailed information is needed, whether the monitoring is being implemented incorrectly, or whether the mitigation is inadequate. After the program is resolved, the group must determine whether a different monitoring system should be established. If the old program is adequate, it should simply be continued; however, if a different program is required, then a new system must be established according to the steps described previously.

BILLING CODE 3710-08-M

[5] R. Lacey, et al., Compendium of Administrators of Land Use and Related Programs. Technical Report N-40/ADA057228 (CERL, 1978).

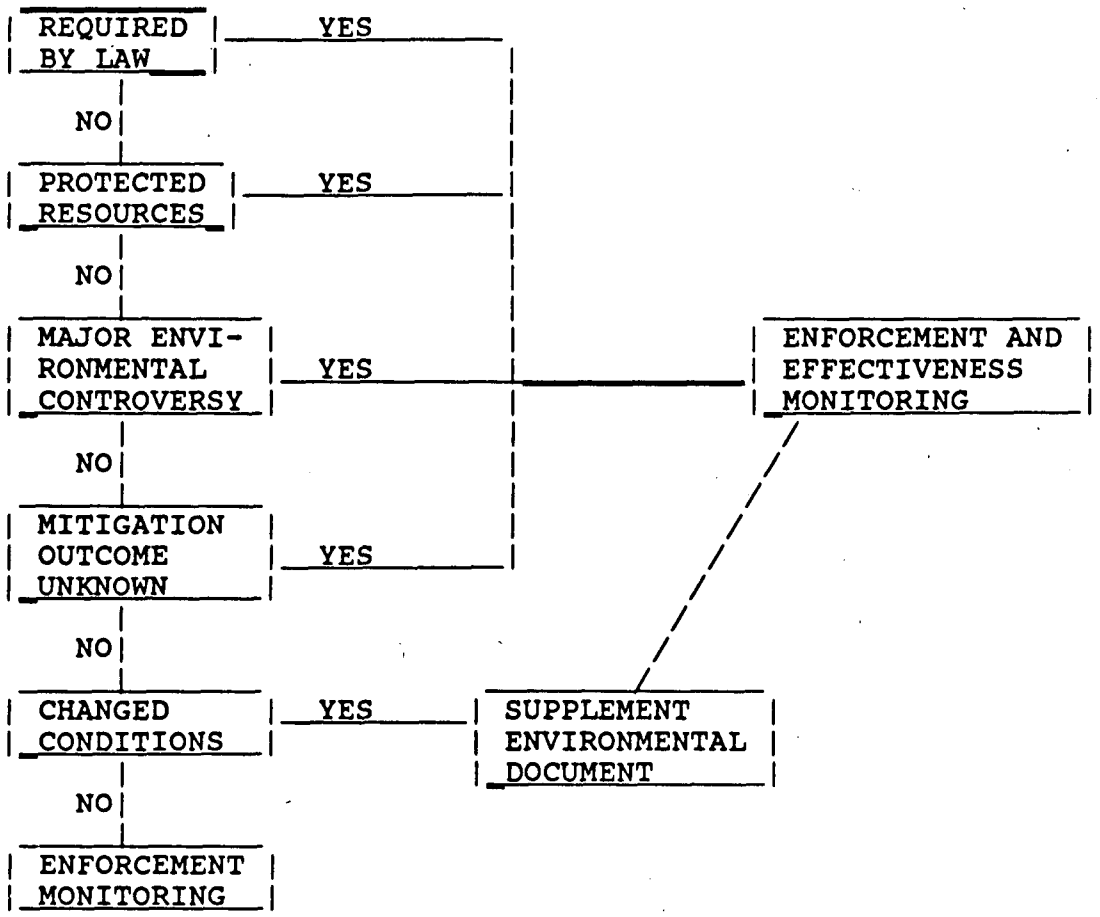


FIGURE D-1 MONITORING MITIGATION

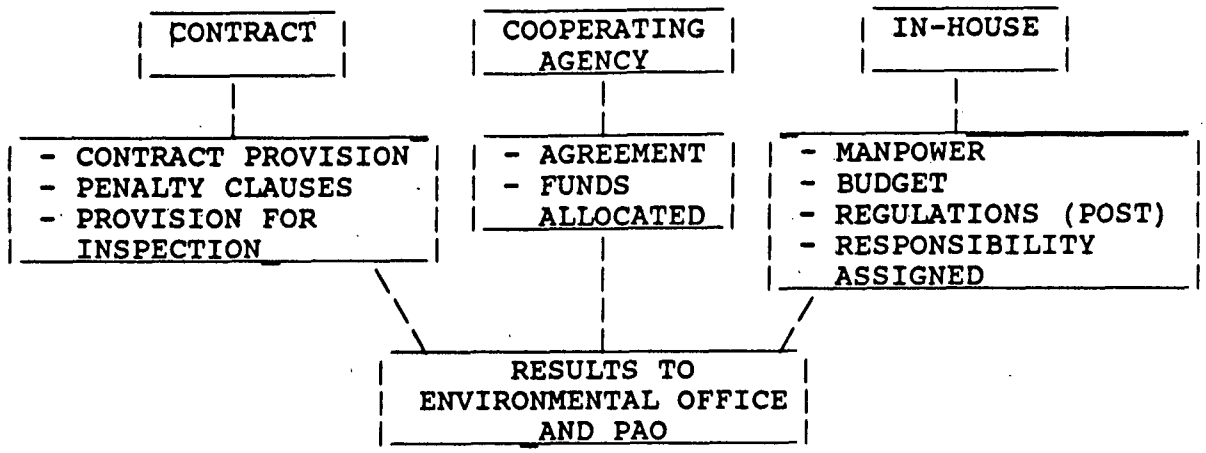


FIGURE D-2 ENFORCEMENT MONITORING

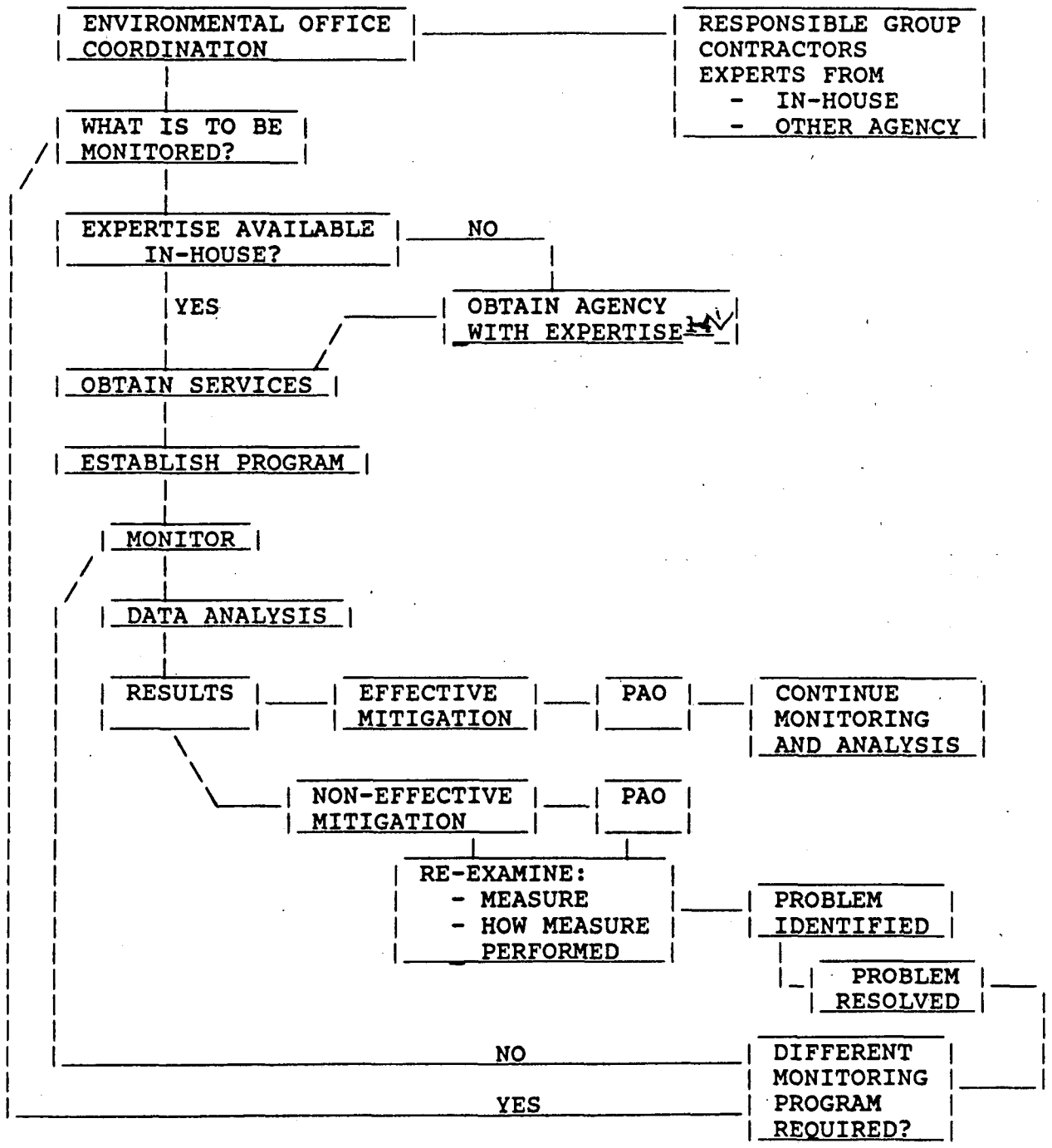


FIGURE D-3 EFFECTIVENESS MONITORING

[14] Council on Environmental Quality, National Environmental Policy Act (NEPA); Implementation Procedures, Appendix I and Appendix II, 45 FR 57488, 28 August 1980.



BILLING CODE 3710-08-C

**Appendix E—Requirements for Environmental Considerations—Global Commons**

(Refer to Department of Defense, Final Procedures issued April 12, 1979 (44 FR 21786), 32 CFR Part 197, Enclosure 1. Adopted herewith with the exception that references to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) are changed to Assistant Secretary of Defense (Production and Logistics).)

**Appendix F—Requirements for Environmental Considerations—Foreign Nations and Protected Global Resources**

(Refer to Department of Defense, Final Procedures issued April 12, 1979 (44 FR 21786), 32 CFR Part 197, Enclosure 2. Enclosure 2 is adopted herewith with the exception that Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) is changed to Assistant Secretary of Defense (Production and Logistics).)

[FR Doc. 88-2626 Filed 2-16-88; 8:45 am]

BILLING CODE 3710-08-M

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 101-47

### Utilization and Disposal of Real Property

**AGENCY:** General Services Administration, FPRS.

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration (GSA) proposes to amend its regulations to revise the procedures for reporting excess Government-owned real property which contains asbestos and for disposing of such real property as has been determined surplus.

**DATE:** Comments must be received on or before March 18, 1988.

**ADDRESS:** Written comments should be sent to the General Services Administration (DRP), Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Marjorie L. Lomax, Director, Policy and Planning Division (202-535-7052).

**SUPPLEMENTARY INFORMATION:** GSA has determined that this rule will not be a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has taken the alternative approach involving the least net cost to society.

**List of Subjects in 41 CFR Part 101-47**

Government property management, Surplus Government property.

GSA proposes to amend Part 101-47 as follows:

## PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

1. The authority citation for Part 101-47 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. The table of contents for Part 101-47 is amended to add the following entry:

101-47.304-13 Provisions relating to asbestos.

### Subpart 101-47.1—General Provisions

3. Section 101-47.103-5 is revised to read as follows:

**§ 101-47.103-5 Decontamination.**

The complete removal or destruction by flashing of explosive powders; the neutralizing and cleaning-out of acid and corrosive materials; the removal, destruction, or neutralizing of toxic, hazardous or infectious substances; and the complete removal and destruction by burning or detonation of live ammunition from contaminated areas and buildings.

### Subpart 101-47.2—Utilization of Excess Real Property

4. Section 101-47.200 is revised to read as follows:

**§ 101-47.200 Scope of subpart.**

(a) This subpart prescribes the policies and methods governing the reporting by executive agencies and utilization by Federal agencies of excess real property, including related personal property within the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Terriroty of the Pacific Islands, and the Virgin Islands. This subpart does not apply to the abandonment, destruction, or donation to public bodies, under section 202(h) of the Act (covered by Subpart 101-47.5).

(b) The provisions of this Subpart 101-47.2 shall not apply to asbestos on Federal property which is subject to section 120 of the Superfund Amendments and Reauthorization Act of 1980, Pub. L. 99-499.

5. Section 101-47.202-2 is amended by adding paragraph (b)(9) to read as follows:

**§ 101-47.202-2 Report forms.**

* * * * *

(b) * * *

(9) To the extent such information is reasonably available or ascertainable from agency files, personnel, and other inquiry, a description of the type, location and condition of asbestos incorporated in the construction, repair, or alteration of any building or improvement on the property (e.g., siding, pipe insulation, etc.). (See also § 101-47.200(b).)

6. Section 101-47.202-7 is revised to read as follows:

**§ 101-47.202-7 Reports involving contaminated property.**

Any report of excess covering property which in its present condition is dangerous or hazardous to health and safety, shall state the extent of such contamination, the plans for decontamination, and the extent to which the property may be used without further decontamination. In the case of properties containing asbestos and in lieu of the requirements of the foregoing provisions of this section, see § 101-47.202-2(b)(9).

### Subpart 101-47.3—Surplus Real Property Disposal

7. Section 101-47.304-5 is revised to read as follows:

**§ 101-47.304-5 Inspection.**

All persons interested in the acquisition of surplus property available for disposal under this Subpart 101-47.3 shall, with the cooperation of the holding agency, where necessary, and with due regard to its program activities, be permitted to make a complete inspection of such property, including any available inventory records, plans, specifications, and engineering reports made in connection therewith, subject to any necessary restrictions in the interest of national security and subject to such rules as may be prescribed by the disposal agency. (See § 101-47.304-13 and § 101-47.403.)

8. Section 101-47.304-13 is added to read as follows:

**§ 101-47.304-13 Provisions relating to asbestos.**

Where the existence of asbestos on the property has been brought to the attention of the disposal agency by the Standard Form 118 information provided

in accordance with § 101–47.202–2(b)(9), the disposal agency shall incorporate such information in any Invitation for Bids/Offers to Purchase and include the following:

**Notice of the Presence of Asbestos—Warning!**

(a) The Purchaser is warned that the property offered for sale contains asbestos. Asbestos is a hazardous material. Unprotected exposure to asbestos fibers has been determined to significantly increase the risk of cancer, mesothelioma, and asbestosis. These diseases can cause serious bodily harm resulting in disability or death.

(b) Bidders (Offerors) are invited, urged and cautioned to inspect the property to be sold prior to submitting a bid (offer). More particularly, bidders (offerors) are invited, urged and cautioned to inspect the property as to its asbestos content and any hazardous or environmental conditions relating thereto. GSA will assist bidders (offerors) in obtaining any authorization(s) which may be required in order to carry out any such inspection(s). Bidders (Offerors) shall be deemed to have relied solely on their own judgment in assessing the overall condition of all or any portion of the property, including any asbestos hazards or concerns.

(c) No warranties either express or implied are given with regard to the condition of the property including, without limitation, whether the property does or does not contain asbestos or is or is not safe for a particular purpose. The failure of any bidder (offeror) to inspect, or to be fully informed as to the condition of all or any portion of the property offered, will not constitute grounds for any claim or demand for adjustment or withdrawal of a bid or offer after its opening or tender.

(d) The description of the property set forth in the Invitation for Bids (Offer to Purchase) and any other information provided therein with respect to said property is based on the best information available to the GSA sales office and is believed to be correct, but an error or omission, including but not limited to the omission of any information available to the agency having custody over the property and/or any other Federal agency, shall not constitute grounds or reason for nonperformance of the contract of sale, or any claim by the Purchaser against the Government including, without limitation, any claim for allowance, refund, or deduction from the purchase price.

(e) The Government assumes no liability for damages for personal injury, illness, disability or death, to the Purchaser, or to the Purchaser's successors, assigns, employees, invitees, or any other person subject to Purchaser's control or direction, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the property which is the subject of this sale, whether the Purchaser, its successors or assigns has or have properly warned or failed to properly warn the individual(s) injured.

(f) The Purchaser further agrees that in its use and occupancy of the property, it will comply with all Federal, state, and local laws relating to asbestos.

Dated: January 28, 1988.

**Earl E. Jones,**

*Commissioner, Federal Property Resources Service.*

[FR Doc. 88–3246 Filed 2–16–88; 8:45 am]

BILLING CODE 6820–96–M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 61

### National Flood Insurance Program; Insurance Rates

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would increase the chargeable (subsidized) rates, which apply to all structures located in communities participating in the Emergency Program of the National Flood Insurance Program and to certain structures in communities in the Regular Program.

**DATE:** All comments received on or before April 18, 1988 will be considered before final action is taken on the proposed rule.

**ADDRESS:** Comment should be sent to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Charles M. Plaxico, Federal Emergency Management Agency, Federal Insurance Administration, Room 429, 500 "C" Street SW., Washington, DC 20472; telephone number (202) 646–3422.

**SUPPLEMENTARY INFORMATION.** These proposed amendments, which would increase the National Flood Insurance Program (NFIP) chargeable (subsidized) rates, are the result of an ongoing review and reappraisal of the NFIP and of continuing efforts to maintain a business-like approach to its administration by emulating successful property insurance programs in the private sector and, at the same time, to achieve greater administrative and fiscal effectiveness in its operation. The proposed amendments are intended to help the NFIP satisfy the premium requirements for the historical average loss year and to reduce the general taxpayer's burden with a more equitable sharing of the costs of flood losses between the general taxpayers and the insureds. Coverage changes and optional deductibles, in addition to rate increases, are part of the ongoing effort to achieve these goals.

The FEMA budget proposal for Fiscal Year 1988 was based upon a 17% increase in premium charges. After Congressional review, Congress inserted in the recently enacted Housing Bill a limitation of a prorated annual 10% increase from the date of the enactment of the Housing Bill until September 30, 1989. This proposal is within this statutory limitation.

The chargeable (subsidized) rates, for which an increase is being proposed, are the rates applicable to structures located in communities participating in the Emergency Program of the NFIP and to certain structures in communities in the Regular Program.

They are countrywide rates for two broad building type classifications which, when applied to the amount of insurance purchased and added to the expense constant, produce a premium income somewhat less than the expense and loss payments incurred on the flood insurance policies issued on that basis. The funds needed to supplement the inadequate premium income are provided by the National Flood Insurance Fund. The subsidized rates are promulgated by the Administrator for use under the Emergency Program (added to the NFIP by the Congress in Section 408 of the Housing and Urban Development Act of 1969) and for the use in the Regular Program on construction or substantial improvement started before December 31, 1974 (this additional grandfathering was added to the NFIP by Congress in section 103 of the Flood Disaster Protection Act of 1973) or the effective date of the initial Flood Insurance Rate Map (FIRM), whichever is later.

Using current subsidized rates and projecting costs to 1988 levels, it is expected that, based on NFIP experience from 1978 through 1986, the average subsidy that would be provided annually by the general taxpayer to each subsidized policyholder would be $74.

Moreover, it should be noted that, over the NFIP's history, the Program has not been subjected to the truly catastrophic flood event, with more than a billion dollars in flood insurance claims. Thus, the historical average is substantially less than could be expected over the long term when the influence of the extremely infrequent, truly catastrophic flood would result in

a significant increase in the average year's losses. This means that the amount of potential subsidy is substantially more than the $74, which was calculated based on NFIP historical loss experience.

The statutory mandate to establish reasonable chargeable rates requires the Federal Emergency Management Agency (FEMA) to balance the need for providing reasonable rates to encourage potential insureds to purchase flood insurance with the requirement that the NFIP be a flexible program which minimizes cost and distributes burdens equitably among those who will be protected by flood insurance and the general public. FEMA has examined the current chargeable rates and the amount of subsidy required to supplement the inadequate premium income derived from insurance policies to which these rates apply. Based on this examination, FEMA has determined that the general public continues to bear too great a share of the burden for subsidized insurance rates. In addition, FEMA has determined that it is necessary to bring NFIP closer to a self-supporting basis and create a sounder financial basis for the program. Therefore, to meet these needs, FEMA proposes to increase the chargeable or subsidized rates as follows:

| Type of Structure | Rates per year per $100 coverage on | |
|---|---|---|
| | Structure | Contents |
| (1) Residential | $0.55 | $0.65 |
| (2) All other (including hotels and motels with normal occupancy of less than 6 months in duration) | .65 | 1.30 |

For comparison, the current subsidized rates are as follows:

| Type of Structure | Rates per year per $100 coverage on | |
|---|---|---|
| | Structure | Contents |
| (1) Residential | $0.50 | $0.60 |
| (2) All other (including hotels and motels with normal occupancy of less than 6 months in duration) | .60 | 1.20 |

The proposed increase has been balanced between the statutory requirement that the chargeable rates be consistent with the objective of making flood insurance available where necessary at reasonable rates so as to encourage prospective insureds to purchase flood insurance and the need for decreasing the federal subsidy, thus more equitably distributing the burden.

The projected average annual premium for subsidized policies using the revised chargeable rates and purchasing estimated 1988 amounts of insurance is $305, which is only a $27 increase. This represents 87% of the premium needed to fund the historical average loss year currently projected at 1988 cost levels. FEMA has determined, based upon an Environmental Assessment, that this proposed rule does not have a significant impact upon the quality of the human environment. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street SW. Washington, DC 20472.

These regulations do not have a significant economic impact on a substantial number of small entities and have not undergone regulatory flexibility analysis.

The rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that the proposed rule does not contain a collection of information requirement as described in section 3504 (h) of the Paperwork Reduction Act.

**List of Subjects in 44 CFR Part 61**

Flood insurance.

Accordingly, Subchapter B of Chapter 1 of Title 44 is proposed to be amended as follows:

## PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for Part 61 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

2. Section 61.9 is revised to read as follows:

**§ 61.9 Establishment of chargeable rates.**

(a) Pursuant to section 1308 of the Act, chargeable rates per year per $100 of flood insurance are established as follows for all areas designated by the Administrator under Part 64 of this subchapter for the offering of flood insurance.

RATES FOR NEW AND RENEWAL POLICIES

| Type of Structure | Rates per year per $100 coverage on | |
|---|---|---|
| | Structure | Contents |
| (1) Residential | $0.55 | $0.65 |
| (2) All other (including hotels and motels with normal occupancy of less than 6 months in duration) | .65 | 1.30 |

(b) The contents rate shall be based upon the use of the individual premises for which contents coverage is purchased.

Dated: February 9, 1988.

**Harold T. Duryee,**

*Federal Insurance Administrator.*

[FR Doc. 88-3271 Filed 2-16-88; 8:45 am]

BILLING CODE 6718-01-M

## FEDERAL COMMUNICATIONS COMMISSION

**47 CFR Part 73**

**[MM Docket No. 87-465; DA 88-78]**

## Broadcast Service; Elimination of TV-to-Land Mobile Interference

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule, extension of time.

**SUMMARY:** This action extends the deadline for comments in the *Notice of Proposed Rule Making/Notice of Inquiry* in Docket 87-465 (52 Fr 47736, December 16, 1987) from February 17, 1988, to March 21, 1988. Also the deadline for reply comments in that Docket is extended from March 2, 1988, to April 4, 1988. The comment deadlines were extended previously at 53 FR 3057, February 3, 1988.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Douglas Minster, Policy and Rules Division, Mass Media Bureau, 632-7792.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order Granting a Motion For An Extension of Time*, adopted January 21, 1988, and released February 8, 1988. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800,

1919 M Street NW., Room 246, Washington, DC.

Federal Communications Commission.

Alex D. Felker,

*Chief, Mass Media Bureau.*

[FR Doc. 87-3348 Filed 2-16-87; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

**[Docket No. FEMA-6923]**

### Proposed Flood Elevation Determinations; Alabama, et al.

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed base flood elevation modifications listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribed how high to build in the flood plain and do not prohibit development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

### List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

## PART 67—(AMENDED)

The authority citation for Part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| **ALABAMA** | |
| **Choctaw County (unincorporated areas)** | |
| *Bogue Chitto River:* | |
| About 700 feet downstream of State Highway 10 | *138 |
| About 0.8 mile upstream of County Highway G | *157 |
| *Wahalak Creek:* | |
| Just downstream of confluence of Brock Creek | *96 |
| About 1.0 mile upstream of confluence of Brock Creek | *106 |
| *Wahalak Creek Tributary No. 1:* | |
| About 2000 feet upstream of mouth | *94 |
| About 3650 feet upstream of mouth | *106 |
| *Brock Creek:* | |
| At mouth | *97 |
| About 1.6 miles upstream of mouth | *108 |
| *Pickett Creek:* | |
| About 1200 feet downstream of confluence of Pickett Creek Tributary No. 3 | *117 |
| Just upstream of confluence of Pickett Creek Tributary No. 3 | *118 |
| *Pickett Creek Tributary No. 3:* | |
| At mouth | *118 |
| About 900 feet upstream of mouth | 121* |
| **Maps available for inspection** at the County Courthouse, Butler, Alabama. Send comments to The Honorable Charles V. Ford, Chairman, County Commission, Choctaw County, County Courthouse, Butler, Alabama 36904. | |
| **ARKANSAS** | |
| **Horseshoe Bend (city), Izard, Sharp, and Fulton Counties** | |
| *Diamond Branch:* | |
| At confluence with Bens Creek | *642 |
| Approximately 1.3 miles upstream from confluence with Bens Creek | *642 |
| Approximately 80 feet upstream of East Tri Lakes Drive | *652 |
| Approximately 2.6 miles above confluence with Bens Creek | *714 |
| *Bens Creek:* | |
| 100 feet downstream of Crown Lake Dam | *641 |
| At approximately 3.4 miles above Crown Lake Dam | *642 |
| At North Little Rock Road | *671 |
| At confluence of Monark Branch | *719 |
| **Maps available for inspection** at 1301 South Edgewater Road, Horseshoe Bend, Arkansas. | |
| Send comments to The Honorable Charles Mowder, Mayor of the city of Horseshoe Bend, Izard, Sharp, and Fulton Counties, 1301 South Edgewater Road, Horseshoe Bend, Arkansas 72512. | |
| **Howard County, (unincorporated areas)** | |
| *Saline River:* At downstream County boundary | *287 |
| *Mine Creek:* | |
| At confluence with Saline River | *287 |
| Approximately .31 mile above confluence with Dillard Creek | *298 |
| At downstream corporate limits of city of Nashville | *409 |
| Approximately 1.7 miles upstream of County boundary | *451 |
| *Town Creek:* | |
| Approximately .4 mile downstream of confluence of Town Creek Tributary | *290 |
| Approximately 285 feet upstream of upstream crossing of Graysonia, Nashville, and Ashdown Railroad | *309 |
| *Town Creek Tributary:* | |
| Confluence with Town Creek | *293 |
| Upstream side of upstream crossing of Graysonia, Nashville and Ashdown Railroad | *305 |
| *Dillard Creek:* | |
| Approximately 74 feet downstream of State Route 27 | *310 |
| Approximately .6 mile upstream of State Route 27 | *316 |
| *Temperenceville Creek:* | |
| At confluence with Mine Creek | *329 |
| Approximately 79 feet upstream of State Route 27 | *334 |
| *Mine Creek Tributary:* | |
| Confluence with Mine Creek | *331 |
| Approximately .3 mile upstream of State Route 27 | *361 |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| *Blue Bayou:* | |
| Approximately .5 mile downstream of confluence of Blue Bayou Tributary #1 | *560 |
| Approximately .3 mile upstream of State Route 26 | *601 |
| *Center Point Creek:* | |
| At confluence with Blue Bayou | *601 |
| At upstream County boundary | *639 |
| *Holly Creek:* | |
| At confluence with Holly Creek Tributary #1 | *396 |
| Approximately 1 mile upstream of confluence of Holly Creek Tributary #3 | *441 |
| *Holly Creek Tributary #1:* | |
| At confluence with Holly Creek | *396 |
| At upstream County boundary | *401 |
| *Holly Creek Tributary #2:* At confluence with Holly Creek | *407 |
| *Cossatot River:* | |
| At Gillham Dam | *569 |
| At Duckett Road | *569 |
| **Maps available for inspection** at the Howard County Courthouse, Nashville, Arkansas. | |
| Send comments to The Honorable Clyde Green, Howard County Judge, 421 North Main, Nashville, Arkansas 71852. | |
| **Logan County, unincorporated areas** | |
| *Greasy Creek:* | |
| At confluence with Petit Jean River | *456 |
| Approximately 163 feet upstream of the Chicago, Rock Island, and Pacific Railroad | *463 |
| *Booneville Creek:* | |
| At confluence with Petit Jean River | *440 |
| Approximately 200 feet upstream of the County boundary | *443 |
| *Booneville Creek Tributary #1:* | |
| At confluence with Booneville Creek | *441 |
| At upstream County boundary | *445 |
| *Petit Jean River:* | |
| At downstream County boundary | *424 |
| At confluence of Greasy Creek | *456 |
| *Arkansas River:* | |
| At downstream County boundary | *341 |
| At upstream County boundary | *373 |
| *Greasy Creek Tributary:* At confluence with Greasy Creek | *456 |
| *Delaware Creek:* | |
| At downstream County boundary | *341 |
| Approximately 2 miles upstream of State Route 22 | *354 |
| *Shoal Creek:* | |
| At confluence with the Arkansas River | *348 |
| Approximately 1 mile upstream of State Route 22 | *371 |
| *Little Shoal Creek:* | |
| At confluence with Shoal Creek | *349 |
| Approximately .4 mile upstream of State Route 22 | *352 |
| *Cane Creek:* | |
| Approximately .3 mile downstream of State Route 197 | *355 |
| Approximately 105 feet upstream of State Route 109 | *356 |
| **Maps available for inspection** at the Logan County Courthouse, Booneville, Arkansas. | |
| Send comments to The Honorable William Roberts, Logan County Judge, Logan County Courthouse, Booneville, Arkansas 72927. | |
| **White Hall (city), Jefferson County** | |
| *Caney Bayou:* | |
| At Missouri Pacific Railroad | *223 |
| At confluence of Caney Bayou Fork | *238 |
| *Caney Tributary No. 1:* | |
| At downstream corporate limits | *229 |
| Approximately 1.45 miles upstream of confluence with Caney Bayou | *249 |
| *School Drain:* | |
| 80 feet downstream of downstream corporate limits | *227 |
| Approximately 100 feet upstream of Colonial Park Road | *246 |
| *Carter Creek:* | |
| At confluence with School Drain | *231 |
| Approximately 900 feet downstream of State Route 365 | *250 |
| Approximately 130 feet upstream of State Route 365 | *267 |
| *Caney Tributary No. 2:* | |
| At downstream corporate limits | *237 |
| Approximately 760 feet downstream of East Holland | *247 |
| Approximately 125 feet upstream of East Holland | *256 |
| *Caney Bayou Fork:* | |
| At confluence with Caney Bayou | *238 |
| Approximately 1,000 feet upstream of U.S. Route 65 | *280 |
| Approximately 80 feet upstream of corporate limits | *302 |
| *Oakland Heights Creek:* | |
| At confluence with Caney Bayou Fork | *247 |
| At confluence of Oakland Heights Tributary | *265 |
| Approximately 160 feet upstream of corporate limits | *275 |
| *Park Creek:* | |
| At confluence with Oakland Heights Creek | *250 |
| Approximately 100 feet upstream of Parkway Drive | *280 |
| Approximately 130 feet upstream of Cooper Street | *300 |
| *Oakland Heights Tributary:* | |
| At confluence with Oakland Heights Creek | *265 |
| .45 mile upstream of confluence with Oakland Heights Creek | *275 |
| *Hensiee Creek:* | |
| At the Union Pacific Railroad | *222 |
| Approximately 260 feet upstream of Cherry Avenue | *253 |
| *Gamble Creek:* | |
| At downstream corporate limits | *261 |
| Approximately 580 feet upstream of upstream corporate limits | *275 |
| *Industrial Creek:* Approximately 0.3 mile east of the abandoned railroad crossing of U.S. Route 65 | *263 |
| **Maps available for inspection** at the City Hall, White Hall, Arkansas. | |
| Send comments to The Honorable Thomas Ashcraft, Mayor of the City of White Hall, Jefferson County, 101 Parkway, White Hall, Arkansas 71602. | |
| **COLORADO** | |
| **Glendale (city), Arapahoe County** | |
| *Cherry Creek:* | |
| At Colorado Avenue | *5,336 |
| Approximately 650 feet upstream of South Cherry Road | *5,349 |
| **Maps are available for inspection** at Engineering Department, City Hall, 950 South Birch, Glendale, Colorado. Send comments to Mayor William Convery, City Hall, 950 South Birch, Glendale, Colorado 80222. | |
| **Sawpit (town), San Miguel County** | |
| *San Miguel River:* | |
| Approximately 145 feet upstream of western corporate limits | *7,530 |
| Approximately 300 feet upstream of western corporate limits | *7,535 |
| Approximately 280 feet downstream of eastern corporate limits | *7,545 |
| **Maps are available for review** at the San Miguel County Planning Office, 305 West Colorado Avenue, Telluride, Colorado. Send comments to the Honorable Roger Mahnke, Mayor, Town of Sawpit, 8 Blake Street, Sawpit, Colorado 81435. | |
| **CONNECTICUT** | |
| **North Canaan (town), Litchfield County** | |
| *Housatonic River:* | |
| At downstream corporate limits | *645 |
| At State boundary | *655 |
| *Camp Brook:* | |
| At confluence with Blackberry River | *653 |
| At Pease Street | *672 |
| At U.S. Route 7 | *681 |
| *Konkapot River:* | |
| At downstream corporate limits | *682 |
| At upstream corporate limits | *695 |
| **Maps available for inspection** at the Town Clerk's Vault, Town Hall, Pease Street, North Canaan, Connecticut. | |
| Send comments to The Honorable Douglas Hume, First Selectman of the Town of North Canaan, Litchfield County, Town Hall, Pease Street, North Canaan, Connecticut 06018. | |
| **Putnam (town), Windham County** | |
| *Quinebaug River:* | |
| At downstream corporate limits | *215 |
| Upstream side of Bridge Street | *257 |
| At upstream corporate limits | *293 |
| *Little River:* | |
| At confluence with Quinebaug River | *231 |
| Approximately 1,000 feet upstream of corporate limits | *271 |
| *Cady Brook:* | |
| Confluence with Fivemile River | *370 |
| Upstream side of Cady Pond Dam | *424 |
| At upstream corporate limits | *445 |
| *Fivemile River:* | |
| At downstream corporate limits | *366 |
| At upstream corporate limits | *387 |
| *Little Dam Tavern Brook:* | |
| At confluence with Quinebaug River | *293 |
| Upstream side of State Route 52 | *338 |
| Approximately 2,000 feet upstream of State Route 21 | *400 |
| *Mary Brown Brook:* | |
| At confluence with Fivemile River | *380 |
| Upstream side of Mary Brown Pond Dam | *449 |
| At upstream corporate limits | *498 |
| **Maps available for inspection** at the Town Clerk's Office, Town Hall, Putnam, Connecticut. | |
| Send comments to The Honorable Samuel Roberts, Mayor of the Town of Putnam, Windham County, Town Hall, Putnam, Connecticut 06260. | |
| **Salisbury (town), Litchfield County** | |
| *Housatonic River:* | |
| At downstream corporate limits | *542 |
| 0.3 mile upstream of Falls Mountain Road | *549 |
| 0.3 mile upstream of Great Falls Dam | *643 |
| At upstream corporate limits | *655 |
| *Salmon Creek:* | |
| At confluence with Housatonic River | *545 |
| Approximately 200 feet downstream of Lime Rock Road | *620 |
| Approximately 1.2 miles upstream of U.S. Route 44 | *690 |
| At Beaver Dam Road | *719 |
| *Factory Brook:* | |
| At confluence with Salmon Creek | *653 |
| Approximately 0.2 mile upstream of Holley Road | *729 |
| *Burton Brook:* | |
| At confluence with Factory Brook | *681 |
| Approximately 0.2 mile upstream of U.S. Route 44 | *737 |
| **Maps available for inspection** at the Town Clerk's Vault, Town Hall, Maine Street, Salisbury, Connecticut. | |
| Send comments to The Honorable Charlotte Reid, First Selectman of the Town of Salisbury, Litchfield County, Town Hall, Main Street, Salisbury, Connecticut 06068. | |
| **FLORIDA** | |
| **Waldo (city), Alachua County** | |
| *Lake Attho: Within community* | *144 |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. ^Elevation in feet (NGVD) |
|---|---|
| **Maps available for inspection** at the City Hall, Waldo, Florida. Send comments to The Honorable Louie Davis, Mayor, City of Waldo, City Hall, P.O. Drawer B, Waldo, Florida 32694. | |
| **GEORGIA** | |
| **Aragon (city), Polk County** | |
| *Euharlee Creek:* | |
| About 1600 feet upstream of State Route 101 | *730 |
| About 1 mile upstream of State Route 101 | *731 |
| **Maps available for inspection** at the City Clerk's Office, City Hall, Aragon, Georgia. Send comments to The Honorable Henry Shepherd, Mayor, City of Aragon, City Hall, P.O. Drawer B, Aragon, Georgia 30104. | |
| **Brantley County (unincorporated areas)** | |
| *Little Buffalo Creek:* | |
| At mouth | *36 |
| At confluence with Little Buffalo Creek Tributary | *60 |
| *Little Buffalo Creek Tributary:* | |
| At mouth | *60 |
| At county boundary | *77 |
| *Tributary No. 1:* | |
| At mouth | *33 |
| Just downstream of U.S. Route 84 | *78 |
| *Tributary A:* | |
| At mouth | *56 |
| About 1000 feet upstream of Road L | *65 |
| *Satilla River:* | |
| Just upstream of CSX railroad | *38 |
| At county boundary | *84 |
| *Buffalo Creek:* | |
| About 1800 feet downstream of County Route 92 | *24 |
| Just downstream of CSX railroad | *41 |
| *Tributary B:* | |
| At mouth | *59 |
| Just downstream of U.S. Route 84 | *60 |
| **Maps available for inspection** at the Community Office, Brantley County Courthouse, Nahunta, Georgia. Send comments to The Honorable Jimmy Woodard, Chairman, Board of Commissioners, Brantley County, P.O. Box 398, Nahunta, Georgia 31553. | |
| **Centerville (city), Houston County** | |
| *Bay Gall Creek:* | |
| Just upstream of Elberta Road | *371 |
| About 2600 feet upstream of Pine Glen | *383 |
| *Tributary No. 2:* | |
| At mouth | *372 |
| About 2000 feet upstream of Manote Drive | *397 |
| **Maps available for inspection** at the City Clerk's Office, City Hall, 500 Houston Lake Boulevard, Centerville, Georgia. Send comments to The Honorable Walker Fowler, Mayor, City of Centerville, City Hall, 500 Houston Lake Boulevard, Centerville, Georgia 31028. | |
| **Wayne County (unincorporated areas)** | |
| *Boggy Creek:* | |
| Just upstream of State Route 99 | *104 |
| Just downstream of dam | *106 |
| Just downstream of County Road 388 | *116 |
| *Coleman Branch:* | |
| About 3200 feet downstream of Norfolk Southern Railway | *66 |
| Just upstream of County Road 312 | *88 |
| *Coleman Branch Tributary:* | |
| At mouth | *82 |
| Just upstream of County Road 3 | *91 |
| *Little McMillen Creek:* | |
| About 0.95 mile upstream of mouth | *43 |
| About 2870 feet upstream of Bethlehem Road | *49 |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. ^Elevation in feet (NGVD) |
|---|---|
| **Maps available for inspection** at the County Commissioners Office, Wayne County Courthouse, Jesup, Georgia. Send comments to The Honorable James Johnson, Chairman, Board of Commissioners, Wayne County, County Courthouse, P.O. Box 217, Jesup, Georgia 31545. | |
| **IDAHO** | |
| **Mountain Home (city), Elmore County** | |
| *Rattlesnake Creek:* | |
| Approximately 2,500 feet downstream of Twelfth South Street along Profile Baseline | *3,115 |
| Approximately 100 feet upstream of Twelfth South Street along Profile Baseline | *3,122 |
| Approximately 100 feet downstream of Sixth South Street along the Profile Baseline | *3,130 |
| Approximately 2,900 feet upstream of Eighth North Street at the northern corporate limits | *3,171 |
| Approximately 200 feet upstream of Interstate Highway 84 | *3,181 |
| Approximately 3,300 feet upstream of Interstate Highway 84 | *3,218 |
| **Maps are available for inspection** at the City Hall, 160 South 3rd East, Mountain Home, Idaho. Send comments to the Honorable Don Etter, Mayor, P.O. Drawer R, Mountain Home, Idaho 83647. | |
| **Soda Springs (city), Caribou County** | |
| *Soda Creek:* | |
| Approximately 700 feet downstream of U.S. Route 30 (at confluence with Alexander Reservoir) | *5,719 |
| Approximately 3,300 feet downstream of North Main Street | *5,736 |
| At First North Street | *5,762 |
| Approximately 1,050 feet upstream of First East Street | *5,789 |
| Approximately 3,500 feet downstream of Gravel Road at Hooper Springs | *5,827 |
| At Gravel Road at Hooper Springs | *5,849 |
| *Little Spring Creek:* | |
| Approximately 700 feet upstream of confluence with Big Spring Creek | *5,737 |
| At Fourth South Street | *5,752 |
| Approximately 500 feet upstream of Third South Street | *5,758 |
| Approximately 100 feet upstream of Union Pacific Railroad | *5,795 |
| Approximately 1,025 feet upstream of Hooper Avenue | *5,802 |
| *Ledger Creek:* | |
| At U.S. Route 30 | *5,838 |
| At County Road (Approximately 2,200 feet upstream of U.S. Route 30) | *5,838 |
| Approximately 1,600 feet downstream of Pioneer Drive | *5,881 |
| At Pioneer Drive | *5,901 |
| **Maps are available for inspection** at the City Hall, Soda Springs Idaho. | |
| Send comments to the Honorable Kirk Hansen, Mayor, City of Soda Springs, Ninth West, Second South, Soda Springs, Idaho 83276. | |
| **ILLINOIS** | |
| **Arthur (village), Moultrie and Douglas Counties** | |
| *West Fork Kaskaskia River:* | |
| Just downstream of Industrial Parkway | *653 |
| About 300 feet upstream of county road | *655 |
| *Kaskaskia River Tributary:* | |
| About 2000 feet downstream of Vine Street | *654 |
| About 650 feet upstream of Conrail | *663 |
| **Maps available for inspection** at the Tourist Information Center, 106 East Progress, Arthur, Illinois. Send comments to The Honorable Keith Phillips, Village President, Village of Arthur, 106 East Progress, Box 129, Arthur, Illinois 61911-0129. | |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. ^Elevation in feet (NGVD) |
|---|---|
| **Clark County (unincorporated areas)** | |
| *Wabash River:* | |
| At downstream county boundary | *450 |
| About 1600 feet upstream of confluence of Crooked Creek | *463 |
| **Maps available for inspection** at the County Clerk's Office, County Courthouse, Marshall, Illinois. Send comments to The Honorable John Hammond, Chairman, County Board, Clark County, County Courthouse, Marshall, Illinois 62441. | |
| **Iroquois County (unincorporated areas)** | |
| *Iroquois River:* | |
| Just downstream of Iroquois and Kankakee County Boundary | *618 |
| About 2.3 miles upstream of Union Pacific railroad | *632 |
| *Sugar Creek:* | |
| At confluence with Iroquois River | *630 |
| About 3000 feet upstream of CSX railroad | *651 |
| *Pigeon Creek:* | |
| About 300 feet downstream of 1300 East Road | *660 |
| Just upstream of Second Street | *664 |
| *Pigeon Creek Tributary No. 1:* | |
| At confluence of Pigeon Creek | *664 |
| About 500 feet upstream of West Street | *665 |
| **Maps available for inspection** at the Planning and Zoning Department, County Courthouse, 550 South 10th Street, Watseka, Illinois. Send comments to The Honorable Harold Liebenow, County Board Chairman, Iroquois County, Iroquois County Courthouse, 550 South 10th Street, Watseka, Illinois 60970. | |
| **Morrison (city), Whiteside County** | |
| *French Creek:* | |
| At mouth | *623 |
| About 1400 feet upstream of Chicago and North Western railroad | *649 |
| *Rock Creek:* | |
| About 2500 feet downstream of Prairie Center Road | *622 |
| About 0.57 mile upstream of West Lincolnway Street | *632 |
| **Maps available for inspection** at the City Clerk's Office, Municipal Building, 200 West Main Street, Morrison, Illinois. Send comments to The Honorable George Piersol, Mayor, City of Morrison, Municipal Building, 200 West Main Street, Morrison, Illinois 61270-2437. | |
| **Woodland (village), Iroquois County** | |
| *Sugar Creek:* | |
| About 1300 feet upstream of North Avenue | *638 |
| About 4200 feet upstream of Main Street | *642 |
| **Maps available for inspection** at the Woodland Post Office, Woodland, Illinois. Send comments to The Honorable Jerry Purdin, Village President, Village of Woodland, Village Hall, Woodland, Illinois 60974. | |
| **KANSAS** | |
| **Louisville (city), Pottawatomie County** | |
| *Rock Creek:* | |
| Approximately 1,500 feet downstream of corporate limits | *1,002 |
| Downstream corporate limits | *1,003 |
| Downstream side of State Route 99 | *1,008 |
| Upstream corporate limits | *1,010 |
| **Maps available for inspection** at the City Hall, Louisville, Kansas. Send comments to The Honorable Jim Kelsey, Mayor of the City of Louisville, Pottawatomie County, City Hall, Louisville, Kansas 66450. | |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| **KENTUCKY** | |
| **Augusta (city), Bracken County** | |
| *Ohio River:* | |
| About 1.0 mile downstream of confluence of Bracken Creek | *509 |
| About 1.3 miles upstream of confluence of Bracken Creek | *511 |
| **Maps available for inspection** at the City Hall, 219 Main Street, Augusta, Kentucky. Send comments to The Honorable Isaac A. Weldon, Mayor, City of Augusta, City Hall, P.O. Box 85, 219 Main Street, Augusta, Kentucky 41002. | |
| **Berea (city), Madison County** | |
| *Walnut Meadow Branch:* | |
| About 1,200 feet downstream of Interstate 75 | *898 |
| Just downstream of Interstate 75 | *901 |
| Just upstream of Interstate 75 | *907 |
| About 1.1 miles upstream of Interstate 75 | *919 |
| *Silver Creek:* | |
| About 1.1 miles downstream of Glade Road | *906 |
| Just downstream of State Route 21 | *941 |
| *Brushy Fork:* | |
| At mouth | *918 |
| Just downstream of U.S. Route 25 | *976 |
| **Maps available for inspection** at the City Hall, Berea, Kentucky. Send comments to The Honorable Clifford F. Kirby, Mayor, City of Berea, P.O. Box 8, Berea, Kentucky 40403. | |
| **Hardin County (unincorporated areas)** | |
| *Valley Creek:* | |
| About 2,400 feet downstream of Western Kentucky Parkway | *668 |
| About 400 feet upstream of the CSX railroad | *684 |
| *Otter Creek:* | |
| About 950 feet downstream of State Route 144 | *630 |
| About 3,500 feet upstream of Private Road | *652 |
| *Brushy Fork:* | |
| At mouth | *632 |
| About 350 feet upstream of Unnamed Street | *645 |
| *Rolling Fork:* | |
| About 1,600 feet downstream of Colesburg Road | *452 |
| About 1,600 feet upstream of confluence of Clear Creek | *453 |
| *Ohio River:* Within community | *443 |
| *Billy Creek:* | |
| At mouth | *679 |
| About 0.7 mile upstream of Saint John Road | *707 |
| *Shaw Creek:* | |
| About 0.5 mile upstream of Saint John Road | *714 |
| About 1,450 feet upstream of Private Drive | *770 |
| **Maps available for inspection** at the County Planning Commission, 14 Public Square, Elizabethtown, Kentucky. Send comments to The Honorable R.R. Thomas, Judge/Executive, Hardin County, Courthouse Square, Elizabethtown, Kentucky 42701. | |
| **Mercer County, (unincorporated areas)** | |
| *Chaplin River:* | |
| Just upstream of Private Road | *721 |
| About 1.5 miles downstream of Cornishville Road | *741 |
| *Kentucky River:* | |
| About 6.0 miles downstream of confluence of Landing Run | *527 |
| Just upstream of Norfolk Southern Railway | *549 |
| **Maps available for inspection** at the County Courthouse Annex, Harrodsburg, Kentucky. Send comments to The Honorable I.C. James III, Judge/Executive, Mercer County, County Courthouse Annex, Harrodsburg, Kentucky 40330. | |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| **Smithland (city), Livingston County** | |
| *Ohio River:* | |
| About 2,600 feet downstream of confluence of Cumberland River | *343 |
| About 1,050 feet upstream of confluence of Cumberland River | *344 |
| **Maps available for inspection** at the City Hall, Smithland, Kentucky. Send comments to The Honorable Lee Reynolds, Mayor, City of Smithland, P.O. Box 295, Smithland, Kentucky 42081. | |
| **Vine Grove (city), Hardin County** | |
| *Brushy Fork:* | |
| About 150 feet downstream of Pitto Lane | *633 |
| About 370 feet upstream of Unnamed Street | *645 |
| *Otter Creek:* | |
| Just downstream of State Route 144 | *633 |
| About 3500 feet upstream of Private Road | *652 |
| **Maps available for inspection** at the City Hall, 201 West Main Street, Vine Grove, Kentucky. Send comments to The Honorable Williams E. Montgomery, Mayor, City of Vine Grove, 201 West Main Street, Vine Grove, Kentucky 40175. | |
| **LOUISIANA** | |
| **Livingston Parish, (unincorporated areas)** | |
| *Middle Colyell Creek:* | |
| At confluence with Colyell Creek | *15 |
| Approximately 400 feet north of Drakeford McMorris Road | *26 |
| Approximately 500 feet north of Black Mud Road | *36 |
| Approximately 1.5 miles upstream of Salt Dome Road | *50 |
| Approximately 800 feet downstream of State Highway 1025 | *55 |
| At State Highway 1025 | *57 |
| *Millers Canal:* | |
| At confluence with Grays Creek | *32 |
| At Interstate Highway 12 | *40 |
| *Millers Canal Tributary:* | |
| At confluence with Millers Canal | *38 |
| Approximately 0.4 mile above Interstate Highway 12 | *40 |
| *Motar Bayou:* | |
| At confluence with West Colyell Creek | *60 |
| At State Highway 1019 | *72 |
| *Taylor Bayou:* | |
| At confluence with Middle Colyell Creek | *25 |
| Approximately 1.05 miles upstream of State Highway 447 | *34 |
| *Colyell Bay:* | |
| At confluence with Amite River | *12 |
| At confluence of Middle Colyell Creek | *15 |
| *Colyell Creek:* | |
| At confluence of Middle Colyell Creek | *15 |
| At South Satsuma Road | *24 |
| At approximately 530 feet upstream of Illinois Central Gulf Railroad | *44 |
| *Dumplin Creek:* | |
| At confluence of Middle Colyell Creek | *32 |
| Approximately 0.34 mile upstream of Gaylord Road South | *41 |
| *Felders Bayou:* | |
| At confluence with West Colyell Creek | *17 |
| At State Highway 447 | *18 |
| At Joe May Road culvert | *29 |
| Approximately 0.38 mile upstream of Garney Hood Road | *32 |
| *Grays Creek:* | |
| At confluence of Amite River | *15 |
| Approximately 350 feet downstream of Scivique Road | *20 |
| Approximately 1.48 miles upstream of Interstate Highway 12 | *40 |
| *Hornsby Creek:* | |
| At confluence with Colyell Creek | *32 |
| At Illinois Central Gulf Railroad | *44 |
| *Little Natalbany River:* | |
| At Illinois Central Gulf Railroad | *36 |
| At State Highway 1064 | *50 |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| *Allen Bayou:* | |
| At confluence with Amite River | *33 |
| At King Drive | *36 |
| *Amite River:* | |
| Approximately 1.2 miles down river of first confluence with Old River | *6 |
| Approximately 0.2 mile downstream of Pipeline Canal | *8 |
| At confluence with Allen Bayou | *33 |
| At approximately 0.76 mile downstream of Hancock Road | *64 |
| *Beaver Branch:* | |
| At confluence with West Colyell Creek | *45 |
| At Milton Road | *46 |
| At State Highway 1025 | *59 |
| Approximately 1.8 miles upstream of State Highway 1024 (Market Road) | *68 |
| *Beaver Creek:* | |
| At confluence with Amite River | *50 |
| At approximately 800 feet downstream of Hunstock Avenue | *52 |
| At State Highway 1024 | *57 |
| At State Highway 1019 | *70 |
| At approximately 200 feet upstream of State Highway 1022 | *73 |
| *Blood River (Lower Branch):* | |
| At confluence with Tickfaw River | *7 |
| At confluence with Lizard Creek | *9 |
| *Blood River (Upper Reach):* | |
| At U.S. Highway 190 | *42 |
| Approximately 0.34 mile downstream of Mary Kinchen Road | *63 |
| *Tickfaw River:* | |
| At confluence of Blood River | *7 |
| Approximately 3.08 miles upstream of confluence with Blood River | *8 |
| *West Colyell Creek:* | |
| At confluence with Middle Colyell Creek | *16 |
| At State Highway 447 | *20 |
| At upstream side of State Highway 1019 | *76 |
| **Maps available for inspection** at the Courthouse Building, Permit Department, 20180 Iowa Street, Livingston, Louisiana. Send comments to The Honorable James Sibley, President of the Livingston Parish Police Jury, P.O. Box 427, Livingston, Louisiana 70754. | |
| **MAINE** | |
| **Bucksport (town), Hancock County** | |
| *Penobscot River:* Entire shoreline within corporate limits | *11 |
| *Long Pond:* Entire shoreline | *66 |
| *Hancock Pond:* Entire shoreline | *105 |
| **Maps available for inspection** at the Town Office, Main Street, Bucksport, Maine. Send comments to The Honorable Henry Bourgon, Chairman of the Town of Bucksport Council, Hancock County, P.O. Drawer X, Bucksport, Maine 04416. | |
| **Damariscotta (town), Lincoln County** | |
| *Damariscotta River:* Entire shoreline within community | *10 |
| *Biscay Pond:* Entire shoreline within community | *81 |
| *Pemaquid Pond:* Entire shoreline within community | *81 |
| **Maps available for inspection** at the Planning Board, Damariscotta, Maine. Send comments to The Honorable Tim Clark, First Selectman of the Town of Damariscotta, Lincoln County, P.O. Box 218, Damariscotta, Maine 04543. | |
| **Ellsworth (city), Hancock County** | |
| *Union River:* | |
| At downstream corporate limits | *11 |
| Approximately 1,800 feet upstream of confluence of Branch Lake Stream | *74 |
| At confluence with Graham Lake | *107 |
| *Graham Lake:* Entire shoreline within corporate limits | *107 |
| *Green Lake:* Entire shoreline with corporate limits | *162 |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| *Branch Lake:* Entire shoreline | *240 |
| **Maps available for inspection** at the City Office, Church Street, Ellsworth, Maine. Send comments to The Honorable Raymond Williams, Chairman of the Ellsworth City Council, Hancock County, P.O. Box 586, Ellsworth, Maine 04605. | |
| **Jefferson (town), Lincoln County** | |
| *Damariscotta Lake:* Entire shoreline within corporate limits | *58 |
| *Dyer Long Pond:* Entire shoreline | *135 |
| *Clary Lake:* Entire shoreline within corporate limits | *154 |
| **Maps available for inspection** at the Planning Board, Jefferson, Maine. Send comments to The Honorable Lincoln Orff, First Selectman of the Town of Jefferson, Lincoln County, P.O. Box #237, Jefferson, Maine 04348. | |
| **Machias (town), Washington County** | |
| *Machias River:* | |
| Approximately 0.3 mile downstream of confluence of Libby Brook | *13 |
| Approximately 400 feet upstream of upstream corporate limits | *49 |
| **Maps available for inspection** at the Town Manager's Office, Town Hall, Machias, Maine. Send comments to The Honorable George Crockett, Manager of the Town of Machias, Washington County, Town Hall, P.O. Box 418, Machias, Maine 04654. | |
| **MARYLAND** | |
| **Church Creek (town), Dorchester County** | |
| *Church Creek:* Entire shoreline | *6 |
| **Maps available for inspection** at the Church Creek Post Office, c/o Francis Fitzhugh, P.O. Box 52, Church Creek, Maryland. Send comments to The Honorable Gerald Grindle, Mayor of the Town of Church Creek, Dorchester County, P.O. Box 52, Church Creek, Maryland 21622. | |
| **MICHIGAN** | |
| **Colon (township), St. Joseph County** | |
| *St. Joseph River:* | |
| About 2800 feet downstream of Farrand Road | *843 |
| About 1.1 miles upstream of Stowell Road | *846 |
| *Swan Creek:* | |
| About 1.7 miles downstream of Decker Road | *852 |
| About 1.8 miles upstream of Decker Road | *853 |
| *Sturgeon Lake:* Along shoreline | *844 |
| *Palmer Lake:* Along shoreline | *852 |
| **Maps available for inspection** at the Township Hall, 132 North Blackstone Avenue, Colon, Michigan. Send comments to The Honorable Richard First, Supervisor, Township of Colon, 132 North Blackstone Avenue, Colon, Michigan 49040. | |
| **MISSISSIPPI** | |
| **Leakesville (town), Greene County** | |
| *Chickasawhay River:* | |
| At confluence of Martin Creek | *85 |
| About 2,000 feet upstream of confluence of Blakely Creek | *88 |
| *Blakely Creek:* | |
| At mouth | *87 |
| About 0.78 mile upstream of Oak Street | *109 |
| *Martin Creek:* | |
| At mouth | *85 |
| About 0.46 mile upstream of mouth | *106 |
| *Martin Creek Tributary:* | |
| At mouth | *95 |
| About 2,400 feet upstream of mouth | *108 |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| **Maps available for inspection** at the Town Hall, Leakesville, Mississippi. Send comments to The Honorable Emma Jean Wilkerson, Mayor, Town of Leakesville, P.O. Box 1088, Leakesville, Mississippi 39451. | |
| **MISSOURI** | |
| **Howard County, unincorporated areas** | |
| Missouri River: | |
| At downstream County boundary | *593 |
| At River Mile 191 | *596 |
| At Missouri-Kansas-Texas Railroad | *601 |
| At confluence of Old Channel Salt Creek | *608 |
| At River Mile 210 | *612 |
| At River Mile 216 | *617 |
| At River Mile 221 | *621 |
| Approximately 0.4 mile downstream of State Route 240 | *626 |
| *Sulphur Creek:* | |
| Approximately 900 feet downstream of Missouri-Kansas-Texas Railroad | *600 |
| Approximately 350 feet upstream of confluence of Cottonwood Creek | *601 |
| *Bear Creek:* Approximately 1.2 miles upstream of confluence with Missouri River | *628 |
| *Greggs Creek:* | |
| Approximately 0.5 mile upstream of confluence with Missouri River | *626 |
| At upstream side of Eighth Street | *633 |
| Approximately 420 feet upstream of confluence of Fifteenth Street | *635 |
| *Adams Fork:* | |
| Approximately 200 feet downstream of Missouri-Kansas-Texas Railroad (abandoned) | *636 |
| At upstream side of Shield Street | *649 |
| Approximately 500 feet upstream of County Highway E | *658 |
| *Bonne Femme Creek (Upper Reach):* | |
| Approximately 1,550 feet downstream of State Route 240 | *629 |
| Approximately 0.7 mile upstream of State Route 240 | *635 |
| *Bonne Femme Creek (Lower Reach):* | |
| Approximately 1,000 feet downstream of Missouri-Kansas-Texas Railroad | *599 |
| Approximately 1,100 feet upstream of confluence of Bonne Femme Tributary | *600 |
| **Maps available for inspection** at the County Courthouse, Fayette, Missouri. Send comments to The Honorable Winston Huttsell, Presiding Commissioner of Howard County, P.O. Box 551, Fayette, Missouri 65248. | |
| **Marshall (city), Saline County** | |
| *North Fork Finney Creek:* | |
| About 700 feet downstream of Fairground Road | *702 |
| About 2,700 feet upstream of Arrow Street | *729 |
| *North Fork Finney Creek Tributary:* | |
| About 0.5 mile downstream of Lexington Avenue | *708 |
| Just downstream of Lexington Avenue | *721 |
| Just upstream of Lexington Avenue | *726 |
| Just downstream of Grant Avenue | *742 |
| **Maps available for inspection** at the Inspection Department, City Office Building, 214 North Lafayette, Marshall, Missouri. Send comments to The Honorable Shirley J. Martin, Mayor, City of Marshall, City Office Building, 214 North Lafayette, Marshall, Missouri 65340. | |
| **NEW HAMPSHIRE** | |
| **Colebrook (town), Coos County** | |
| *Connecticut River:* | |
| At downstream corporate limits | *1,006 |
| Confluence of Mohawk River | *1,010 |
| Upstream corporate limits | *1,019 |
| **Maps available for inspection** at the Town Clerk's Vault, Colebrook, New Hampshire. Send comments to The Honorable Sally Wentzel, Manager of the Town of Colebrook, Coos County, Town Hall; Ten Bridge Street; Colebrook, New Hampshire 03576. | |
| **Northumberland (town), Coos County** | |
| *Connecticut River:* | |
| Approximately 150 feet downstream of downstream corporate limits | *854 |
| At confluence of Ammonoosuc River | *863 |
| At upstream corporate limits | *865 |
| **Maps available for inspection** at the Town Manager's Safe, Northumberland, New Hampshire. Send comments to The Honorable Ronald Gilbert, Manager of the Town of Northumberland, Coos County, Two State Street, Groveton, New Hampshire 03582. | |
| **NEW MEXICO** | |
| **Moriarty (city), Torrance County** | |
| *City Draw:* | |
| At Columbia Street approximately 920 feet south of U.S. Route 66 | #1 |
| At Columbia Street approximately 1,400 feet south of U.S. Route 66 | #2 |
| At Broadway approximately 920 feet south of U.S. Route 66 | #1 |
| At Broadway approximately 980 feet south of U.S. Route 66 | #2 |
| At Broadway approximately 1,300 feet south of U.S. Route 66 | #3 |
| *Duke Country Draw:* | |
| At Linden Avenue approximately 100 feet west of State Route 41 | #2 |
| At Girard Avenue approximately 100 feet west of State Route 41 | #1 |
| *Crossley Draw:* | |
| At Eastern Avenue approximately 600 feet north of Martinez Road | #1 |
| At approximately 100 feet west of Eastern Avenue and approximately 600 feet north of Martinez Road | #2 |
| *Salt Draw:* | |
| At approximately 1,300 feet downstream of U.S. Route 66 | *6,196 |
| At approximately 275 feet upstream of Interstate Route 40 | *6,203 |
| At State Route 41 | *6,214 |
| At approximately 1,600 feet upstream of State Route 41 | *6,216 |
| **Maps available for inspection** at the City Hall, Moriarty, New Mexico. Send comments to The Honorable John B. Salvo, Mayor of the City of Moriarty, Torrance County, P.O. Drawer 130, Moriarty, New Mexico 87035. | |
| **Santa Fe County, unincorporated areas** | |
| *Santa Fe River:* | |
| At Agua Fria Road | *6,267 |
| Approximately 1.3 miles upstream of Agua Fria Road | *6,333 |
| Approximately 2.5 miles upstream of Agua Fria Road | *6,403 |
| Approximately 3.5 miles upstream of Agua Fria Road | *6,468 |
| Approximately 4.5 miles upstream of Agua Fria Road | *6,536 |
| Approximately 350 feet upstream of Access Road | *6,600 |
| Approximately 1.0 mile upstream of Access Road | *6,660 |
| Approximately 1.9 miles upstream of Access Road | *6,723 |
| *Arroyo Hondo:* | |
| Approximately 500 feet upstream of confluence with Arroyo de Los Chamisos | *6,117 |
| Approximately 1.2 miles downstream of West Frontage Road | *6,187 |
| Approximately 365 feet downstream of West Frontage Road | *6,250 |
| Approximately 0.6 mile upstream of State Route 14 | *6,310 |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. ^Elevation in feet (NGVD) |
|---|---|
| Approximately 1.7 miles upstream of State Route 14 | *6,380 |
| Approximately 2.4 miles upstream of State Route 14 | *6,440 |
| Approximately 3.2 miles upstream of State Route 14 | *6,505 |
| Approximately 4.0 miles upstream of State Route 14 | *6,575 |
| Approximately 1.6 miles downstream of Atchison, Topeka, and Santa Fe Railroad | *6,640 |
| Approximately 0.8 mile downstream of Atchison, Topeka, and Santa Fe Railroad | *6,715 |
| Approximately 0.3 mile upstream of Atchison, Topeka, and Santa Fe Railroad | *6,805 |
| *Arroyo de Los Chamisos:* | |
| Approximately 550 feet upstream of confluence with Arroyo Hondo | *6,116 |
| Approximately 1.2 miles upstream of County Road | *6,183 |
| Approximately 2.3 miles upstream of County Road | *6,240 |
| Approximately 3.4 miles upstream of County Road | *6,300 |
| Approximately 0.5 mile downstream of Interstate Route 85 | *6,364 |
| Approximately 0.6 mile upstream of Interstate Route 85 | *6,430 |
| Approximately 0.3 mile upstream of Auto Park Drive | *6,500 |
| At Rodeo Road | *6,552 |
| *Santa Cruz River:* | |
| Approximately 1,850 feet upstream of County boundary | *5,629 |
| Approximately .5 mile upstream of County Route 106 | *5,700 |
| Approximately 1.9 miles upstream of County Route 106 | *5,775 |
| Approximately 3.2 miles upstream of County Route 106 | *5,850 |
| Approximately 100 feet upstream of County boundary | *5,927 |
| **Maps available for inspection** at the County Courthouse, 102 Grant Avenue, Santa Fe, New Mexico. | |
| Send comments to The Honorable Tom Wilson, Santa Fe County Land Use Administrator, County Courthouse, P.O. Box 276, Santa Fe, New Mexico 87504-0276. | |
| **NEW YORK** | |
| **Seneca Nation of Indians, Allegany, Cattaraugus, Chautaugua, and Erie Counties** | |
| *Cattaraugus Creek:* | |
| Approximately .44 mile downstream of U.S. Route 20 | *589 |
| Approximately 3.06 miles upstream of Interstate Route 90 | *605 |
| At upstream corporate limits | *664 |
| **Maps available for inspection** at the William Seneca Tribal Office Building, 1490 Route 438, Irving, New York. | |
| Send comments to The Honorable Robert Hoag, President of the Seneca Nation of Indians, Allegany, Cattaraugus, Chautauga, and Erie Counties, P.O. Box 231, Salamanca, New York 14779. | |
| **Walton (town), Delaware County** | |
| *West Branch Delaware River (Lower Reach):* | |
| 300 feet downstream of State Route 10 | *1,169 |
| At confluence of Bobs Brook | *1,188 |
| At upstream corporate limits | *1,201 |
| *West Branch Delaware River:* | |
| At downstream corporate limits | *1,216 |
| Approximately 1 mile upstream of Marvin Hollow | *1,222 |
| *East Brook:* | |
| At corporate limits | *1,236 |
| Downstream side of East Brook Hollow Road | *1,263 |
| Approximately 1 mile upstream of East Brook Hollow Road | *1,288 |
| *Third Brook:* | |
| At downstream corporate limits | *1,273 |
| Approximately 1,800 feet upstream of corporate limits | *1,320 |
| Approximately .8 mile upstream of corporate limits | *1,391 |
| **Maps available for inspection** at the Town Office Building, 109 Delaware Street, Walton, New York. | |
| Send comments to The Honorable Bruce C. Budine, Supervisor of the Town of Walton, Delaware County, 109 Delaware Street, Walton, New York 13856. | |
| **Wesley Hills (village), Rockland County** | |
| *Willow Tree Brook:* | |
| At downstream corporate limits | *365 |
| Approximately 40 feet upstream of Forshay Road | *477 |
| Approximately 20 feet upstream of Wind Mill Drive | *544 |
| At upstream corporate limits | *566 |
| *Spook Rock Brook:* | |
| At confluence with Willow Tree Brook | *383 |
| At upstream corporate limits | *386 |
| **Maps available for inspection** at the Office of the Building Inspector, Village Hall, Wesley Hills, New York. | |
| Send comments to The Honorable Robert Frankl, Mayor of the Village of Wesley Hills, Rockland County, 332 Route 306, Wesley Hills, New York 10952. | |
| **NORTH CAROLINA** | |
| **Northampton County (unincorporated areas)** | |
| *Roanoke River:* | |
| At county boundary | *36 |
| Just downstream of Roanoke Rapids Dam | *67 |
| Just upstream of Roanoke Rapids Dam | *135 |
| Just downstream of Gaston Dam: | *136 |
| At county boundary | *205 |
| **Maps available for inspection** at the County Courthouse, Seaboard, North Carolina. Send comment to The Honorable Jack Faison, Chairman, Board of Commissioners, Northampton County, County Courthouse, P.O. Box 102, Seaboard, North Carolina 27876. | |
| **Stokes County (unincorporated areas)** | |
| *Dan River:* | |
| About 2.1 miles upstream of State Road 89 | *745 |
| About 2.9 miles upstream of State Road 89 | *750 |
| *Crooked Run Creek:* | |
| At county boundary | *882 |
| Just downstream of SR 1105 | *904 |
| **Maps available for inspection** at the Planning Department, County Courthouse, Danbury, North Carolina. Send comments to The Honorable Jerry Rothrock, County Manager, Stokes County, P.O. Box 20, Danbury, North Carolina 27160. | |
| **OHIO** | |
| **Geauga County (unincorporated areas)** | |
| *Bridge Creek:* | |
| About 1,700 feet downstream of Washington Street | *1,149 |
| About 1,100 feet upstream of Stafford Road | *1,170 |
| *West Branch Bridge Creek:* | |
| At mouth | *1,161 |
| Just downstream of Stafford Road | *1,175 |
| *Unnamed tributary to Aurora Branch Chagrin River:* | |
| At county boundary | *1,043 |
| Just downstream of Haskins Road | *1,064 |
| *East Branch Chagrin River:* | |
| Just upstream of Mitchell's Mill Road | *830 |
| At county boundary | *867 |
| *West Branch Cuyahoga River:* | |
| About 0.76 mile downstream of Mayfield Road | *1,131 |
| About 0.77 mile upstream of Mayfield Road | *1,136 |
| *Swine Creek:* | |
| At county boundary | *909 |
| Just downstream of CSX railroad | *1,045 |
| *Chagrin River:* | |
| About 2,400 feet downstream of Kinsman Road | *1,000 |
| About 1,400 feet upstream of Fairmount Road | *1,034 |
| About 1,000 feet downstream of Mayfield Road | *1,105 |
| At Auburn Road | *1,141 |
| *Silver Creek:* | |
| At mouth | *1,012 |
| Just downstream of Music Street | *1,092 |
| *West Branch Silver Creek:* | |
| At mouth | *1,043 |
| About 0.8 mile upstream of Music Street | *1,094 |
| **Maps available for inspection** at the County Planning Commission, Courthouse Annex, 215 Main Street, Chardon, Ohio. Send comments to The Honorable Tony Gall, President, Board of Commissioners, Geauga County, 231 Main Street, Chardon, Ohio 44024. | |
| **Middlefield (village), Geauga County** | |
| *Tributary A:* | |
| Just upstream of corporate limits | *1,106 |
| Just downstream of Lake Dam | *1,133 |
| Just upstream of Lake Dam | *1,144 |
| About 2,800 feet upstream of Grove Street | *1,159 |
| *Tributary B:* | |
| At mouth | *1,116 |
| Just downstream of North State Street | *1,123 |
| **Maps available for inspection** at the Village Municipal Center, Middlefield, Ohio. Send comments to The Honorable John Moosey, Village Administrator, Village of Middlefield, 14860 North State Street, Middlefield, Ohio 44062. | |
| **Paulding (village), Paulding County** | |
| *Flat Rock Creek:* | |
| About 2,300 feet downstream of Jackson Street | *718 |
| About 1600 feet upstream of abandoned railroad | *722 |
| **Maps available for inspection** at the Village Hall, 201 North Williams Street, Paulding, Ohio. Send comments to The Honorable Vera Mills, Mayor, Village of Paulding, Village Hall, 208 North Williams Street, Paulding, Ohio 45879. | |
| **Zanesville (city), Muskingum County** | |
| *Muskingum River:* | |
| At downstream corporate limits | *691 |
| At upstream corporate limits | *700 |
| *Licking River:* | |
| At confluence with Muskingum River | *694 |
| At upstream corporate limits | *694 |
| **Maps available for inspection** at the Municipal Building, 401 Market Street, Zanesville, Ohio. | |
| Send comments to The Honorable Donald R. Mason, Mayor of the City of Zanesville, Muskingum County, 401 Market Street, Zanesville, Ohio 43701. | |
| **OREGON** | |
| **Troutdale (city), Multnomah County** | |
| *Sandy River:* | |
| 1.5 miles downstream of Interstate 84 westbound | *32 |
| At Interstate 84 eastbound | *32 |
| At Crown Point Road | *37 |
| 5,500 feet upstream from Crown Point Road | *43 |
| *Beaver Creek:* | |
| At confluence with Sandy River | *33 |
| 200 feet upstream of Crown Point Road | *39 |
| 100 feet upstream of Stark Street | *211 |
| 700 feet upstream of Stark Street | *212 |
| 120 feet downstream of Sweetbriar Road | *242 |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| **Maps are available for review** at City Hall, 104 S.E. Kibling Street, Troutdale, Oregon. Send comments to the Honorable Sam K. Cox, Mayor, City of Troutdale, City Hall, 104 S.E. Kibling Street, Troutdale, Oregon 97060. | |
| **PENNSYLVANIA** | |
| **Albany (township), Berks County** | |
| *Maiden Creek—Ontelaunee Creek* | |
| At downstream corporate limits | *379 |
| Approximately 140 feet upstream of upstream corporate limits | *425 |
| **Maps available for inspection** at the residence of Karen FitzGerald, Township Secretary, R.D. #2, Box 262 H, Kempton, Pennsylvania. | |
| Send comments to The Honorable Terry Kunkle, Chairman of the Township of Albany, Board of Supervisors, Berks County, R.D. #2, Box 263, Kempton, Pennsylvania 19529. | |
| **Amity (township), Erie County** | |
| *Union City Reservoir:* Entire shoreline within community | *1,278 |
| **Maps available for inspection** at the Township Building, Casler Road, Union City, Pennsylvania. | |
| Send comments to The Honorable Robert Babcock, Chairman of the Township of Amity Board of Supervisors, Erie County, R.D. #4, Union City, Pennsylvania. 16438. | |
| **Blooming Grove (township), Pike County** | |
| *Billing Creek:* | |
| Confluence of Shohola Creek | *1,288 |
| Approximately .5 mile upstream of LR 51019 | *1,291 |
| *Blooming Grove Creek:* | |
| At State Route 402 | *1,386 |
| Downstream side of LR 51019 | *1,439 |
| Approximately .6 mile upstream of confluence of Fairview Outlet | *1,456 |
| *Shohola Creek:* | |
| At confluence of McConnell Creek | *1,258 |
| At T-410 (Spring Road) | *1,298 |
| **Maps available for inspection** at the Township Municipal Building, Route 739, Lords Valley, Pennsylvania. | |
| Send comments to The Honorable Fred Hatton, Chairman of the Township of Blooming Grove Board of Supervisors, Pike County, Box 232, Hawley, Pennsylvania 18428. | |
| **Conway (borough), Beaver County** | |
| *Ohio River:* For its entire length within the community | *706 |
| **Maps available for inspection** at the Borough Building, 1208 Third Avenue, Conway, Pennsylvania. | |
| Send comments to The Honorable Jack Andolina, Mayor of the Borough of Conway, Beaver County, Borough Building, 1208 Third Avenue, Conway, Pennsylvania 15027. | |
| **Coolbaugh (township), Monroe County** | |
| *Tobyhanna Creek:* | |
| At Interstate 81 | *1,877 |
| Approximately 1,100 feet upstream of Leonard Lane | *1,923 |
| *Lehigh River:* | |
| Approximately .25 mile upstream of confluence of Choke Creek | *1,514 |
| Approximately .8 mile upstream of confluence of Wolf Run | *1,570 |
| **Maps available for inspection** at the Township Building, 242 Laurel Drive, Tobyhanna, Pennsylvania. | |
| Send comments to The Honorable Robert E. Bonny, Supervisor of the Township of Coolbaugh, Monroe County, 242 Laurel Drive, Tobyhanna, Pennsylvania 18466. | |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| **Damascus (township), Wayne County** | |
| *Delaware River:* | |
| At downstream corporate limits | *697 |
| At T-678 extended | *711 |
| At confluence with Calkins Creek | *725 |
| Downstream side of State Route 371 | *734 |
| Upstream side of State Route 1016 | *757 |
| At upstream corporate limits | *772 |
| *Calkins Creek:* | |
| At confluence with Delaware River | *725 |
| Just downstream of confluence with North Branch Calkins Creek and South Branch Calkins Creek | *748 |
| *North Branch Calkins Creek:* | |
| At confluence with Calkins Creek | *748 |
| Approximately 990 feet upstream of confluence with Calkins Creek | *764 |
| *South Branch Calkins Creek:* | |
| At confluence with Calkins Creek | *748 |
| Approximately 1,270 feet upstream of confluence with Calkins Creek | *769 |
| **Maps available for inspection** at the Township Municipal Building, Damascus, Pennsylvania. | |
| Send comments to The Honorable Thomas Griffith, Chairman of the Township of Damascus Board of Supervisors, Wayne County, Route 371, Tyler Hill, Pennsylvania 18469. | |
| **Findlay (township), Allegheny County** | |
| *McClarens Run:* | |
| Approximately 550 feet downstream of Cliff Mine Road | *867 |
| Approximately 0.3 mile upstream of Hilton Inn Drive | *920 |
| *Montour Run:* | |
| At downstream corporate limits | *867 |
| Approximately 400 feet downstream of first downstream crossing of Railroad Street | *940 |
| Approximately 0.6 mile upstream of School Road | *979 |
| *South Fork Montour Run:* | |
| At U.S. Route 30 | *979 |
| Approximately 0.3 mile upstream of Santiago Road | *1,026 |
| *North Fork Montour Run:* | |
| At confluence with Montour Run | *979 |
| Approximately 0.4 mile downstream of Point Park Road | *1,050 |
| Approximately 160 feet upstream of Point Park Road | *1,078 |
| **Maps available for inspection** at the Township Community Center, U.S. Route 30, Clinton, Pennsylvania. | |
| Send comments to The Honorable Joseph Nester, Jr., Chairman of the Township of Findlay Board of Supervisors, Allegheny County, P.O. Drawer W, Clinton, Pennsylvania 15026. | |
| **Greene (township), Pike County** | |
| *East Branch Wallenpaupack Creek:* | |
| Approximately 1,150 feet downstream of State Route 507 | *1,301 |
| Approximately 65 feet upstream of Creek Road | *1,380 |
| *Wallenpaupack Creek:* | |
| Approximately 1.9 miles downstream of State Route 507 | *1,278 |
| Approximately 5.8 miles upstream of State Route 507 | *1,596 |
| **Maps available for inspection** at the Greene Township Municipal Building, Greentown, Pennsylvania. | |
| Send comments to The Honorable Edward Cykosky, Chairman of the Board of Supervisors for the Township of Greene, Pike County, P.O. Box 243, Greentown, Pennsylvania 18426. | |
| **Liberty (township), Bedford County** | |
| *Raystown Branch Juniata River:* | |
| Approximately 1.1 miles downstream of confluence of Ravers Run | *836 |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| Approximately 0.7 mile upstream of confluence of Ravers Run | *844 |
| *Ravers Run:* | |
| At confluence with Raystown Branch of the Juniata River | *841 |
| Approximately 30 feet upstream of Township Route 568 | *897 |
| **Maps available for inspection** at the residence of Dennis Gresko, Township Secretary, 604 16th Street, Saxton, Pennsylvania. | |
| Send comments to The Honorable Donald Weaver, Chairman of the Township of Liberty Board of Supervisors, Bedford County, R.D. 1, Saxton, Pennsylvania 16678. | |
| **Lincoln (township), Bedford County** | |
| *Bobs Creek:* | |
| Approximately .2 mile downstream of downstream corporate limits | *1,233 |
| Approximately .6 mile upstream of downstream corporate limits | *1,270 |
| *Georges Creek:* | |
| Approximately 350 feet downstream of downstream corporate limits | *1,279 |
| Approximately .5 mile upstream of LR 5078 | *1,350 |
| Downstream side of T-633 | *1,413 |
| Approximately .4 mile upstream of T-633 | *1,469 |
| **Maps available for inspection** at the residence of Ms. Mary Heisel, Township Secretary, Box 156, Alum Bank, Pennsylvania. | |
| Send comments to The Honorable Ray Berkey, Chairman of the Township of Lincoln Board of Supervisors, Bedford County, R.D. #1, Box 489, Imler, Pennsylvania 16655. | |
| **Manchester (township), Wayne County** | |
| *Delaware River:* | |
| At downstream corporate limits | *773 |
| At confluence with Cooley Creek | *809 |
| At T-651 extended | *827 |
| Approximately 1.8 miles upstream of T-651 extended | *841 |
| **Little Equinunk Creek:** | |
| At confluence with the Delaware River | *817 |
| Approximately .5 mile upstream of Stalker Road | *863 |
| Approximately .9 mile upstream of Stalker Road | *920 |
| *South Branch Equinunk Creek:* | |
| Approximately 150 feet above confluence with Delaware River | *911 |
| At downstream side of Equinunk Road | *986 |
| At upstream side of Whitleys Road | *1,030 |
| At downstream side of S.R. 1018 | *1,129 |
| **Maps available for inspection** at the Manchester Municipal Building, R.R. 1, Box 84, AA, Equinunk, Pennsylvania. | |
| Send comments to The Honorable John Galloway, Chairman of the Township of Manchester Board of Supervisors, Wayne County, R.D. 1, Equinunk, Pennsylvania 18417. | |
| **Matamoras (borough), Pike County** | |
| *Delaware River:* | |
| At downstream corporate limits | *434 |
| At upstream corporate limits | *443 |
| **Maps available for inspection** at the Borough Hall, Matamoras, Pennsylvania. | |
| Send comments to The Honorable James J. Santos, President of the Matamoras Borough Council, Pike County, P.O. Box 207, Matamoras, Pennsylvania 18336. | |
| **Mead (township), Warren County** | |
| *Allegheny River:* | |
| Downstream corporate limits | *1,184 |
| Approximately 2.02 miles upstream of U.S. Route 6 | *1,194 |
| Downstream side of Kinzua Dam | *1,208 |
| **Maps available for inspection** at the Municipal Building, U.S. Route 6, Stoneham, Pennsylvania. | |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. ^Elevation in feet (NGVD) |
|---|---|
| Send comments to The Honorable Clifton Siffin, Chairman of the Township of Mead Board of Supervisors, Warren County, Box 1226 A, R.D. 1, Clarendon, Pennsylvania 16313. | |
| **Midland (borough), Beaver County** | |
| *Ohio River:* | |
| At downstream corporate limits | *693 |
| At upstream corporate limits | *695 |
| **Maps available for inspection** at the Midland Borough Building, Midland, Pennsylvania. | |
| Send Comments to The Honorable William Shorlin, President of the Borough of Midland Council, Beaver County, 817 Midland Avenue, Midland, Pennsylvania 15059. | |
| **Ohio (township), Allegheny County** | |
| *Lowries Run:* | |
| Approximately 870 feet downstream of Glenn Road | *783 |
| Approximately 0.4 mile upstream of the confluence of Bear Run | *856 |
| *Bear Run:* | |
| Approximately 200 feet downstream of Lowries Run Road | *844 |
| Approximately .3 mile downstream of second upstream crossing of Mount Nebo Road | *910 |
| Approximately 0.5 mile upstream of second upstream crossing of Mount Nebo Road | *950 |
| **Maps available for inspection** at the Ohio Township Municipal Building, 1719 Roosevelt Road, Pittsburgh, Pennsylvania. | |
| Send comments to The Honorable J. David Holman, Chairman of the Township of Ohio Board of Supervisors, Allegheny County, R.D. 2, Box 201, Sewickley, Pennsylvania 15143. | |
| **Pleasant (township), Warren County** | |
| *Allegheny River:* | |
| At downstream corporate limits | *1,141 |
| Downstream side of U.S. Route 62 | *1,158 |
| At upstream corporate limits | *1,184 |
| **Maps available for inspection** at the Township Building, Chari Lane and Mill Street, Warren, Pennsylvania. | |
| Send comments to The Honorable David Worley, Chairman of the Township of Pleasant Board of Supervisors, Warren County, P.O. Box 865, Warren, Pennsylvania 16365. | |
| **Pleasantville (borough), Bedford County** | |
| *Barefoot Run:* | |
| Approximately 150 feet downstream of State Route 96 | *1,212 |
| Approximately 20 feet upstream of Hench Street | *1,222 |
| Approximately 50 feet downstream of Main Street | *1,230 |
| Approximately 320 feet upstream of Main Street | *1,236 |
| **Maps available for inspection** at the residence of Brenda Webb, Borough Secretary, Alum Bank, Pennsylvania. | |
| Send comments to The Honorable Emerson Bowser, Mayor of the Borough of Pleasantville, Bedford County, Alum Bank, Pennsylvania 15521. | |
| **Potter (township), Beaver County** | |
| *Ohio River:* | |
| At downstream corporate limits | *698 |
| At upstream corporate limits | *702 |
| **Maps available for inspection** at the Potter Township Municipal Building, Monaca, Pennsylvania. | |
| Send comments to The Honorable Robert Buffington, Chairman of the Township of Potter Board of Supervisors, Beaver County, Municipal Building, 206 Mowry Road, Monaca, Pennsylvania 15061. | |
| **Versailles (borough), Allegheny County** | |
| *Youghiogheny River:* | |
| At downstream corporate limits | *747 |
| At upstream corporate limits | *750 |
| *Long Run:* | |
| At approximately 450 feet downstream of downstream corporate limits | *752 |
| At upstream corporate limits | *774 |
| **Maps available for inspection** at the Versailles Borough Building, McKeesport, Pennsylvania. | |
| Send comments to The Honorable Albert Tronzo, Mayor of the Borough of Versailles, Allegheny County, 5100 Walnut Street, McKeesport, Pennsylvania 15132. | |
| **Washington (township), Northampton County** | |
| *Martins Creek:* | |
| Approximately 100 feet downstream of State Route 165 | *384 |
| Approximately 375 feet upstream of CONRAIL | *466 |
| Approximately 825 feet downstream of L.R. 48075 | *563 |
| At upstream corporate limits | *611 |
| *Waltz Creek:* | |
| Approximately 1,350 feet downstream of State Route 191 | *475 |
| Approximately 560 feet upstream of State Route 191 | *501 |
| *Unnamed Tributary to Waltz Creek:* | |
| At confluence with Waltz Creek | *475 |
| Approximately 165 feet upstream of Gravel Dam | *479 |
| *Unnamed tributary to Martins Creek:* | |
| At confluence with Martins Creek | *574 |
| At upstream corporate limits | *611 |
| **Maps available for inspection** at the Washington Township Building, Ackermanville, Pennsylvania. | |
| Send comments to The Honorable Paul Wagner, Chairman of the Board of Supervisors for the Township of Washington, Northampton County, P.O. Box 100, Ackermanville, Pennsylvania 18110. | |
| **Westfall (township), Pike County** | |
| *Delaware River:* | |
| 1,160 feet downstream of downstream corporate limits | *408 |
| 1.5 miles upstream from downstream corporate limits | *414 |
| 2.5 miles upstream from downstream corporate limits | *417 |
| Approximately .5 mile downstream from upstream corporate limits | *431 |
| **Maps available for inspection** at the Township Office (in the former Pierce Building), Westfall, Pennsylvania. | |
| Send comments to The Honorable Muriel Revak, Chairperson of the Township of Westfall Board of Supervisors, Pike County, P.O. Box 247, Matamoras, Pennsylvania 18336. | |
| **SOUTH CAROLINA** | |
| **Eastover (town), Richland County** | |
| *Griffeus Creek:* | |
| About 3150 feet downstream of CSX railroad | *166 |
| About 2800 feet upstream of Main Street | *179 |
| **Maps available for inspection** at the Town Hall, Eastover, South Carolina. The Honorable Lewis N. Scott, Mayor, Town of Eastover, P.O. Box 38, Eastover, South Carolina 29044. | |
| **SOUTH DAKOTA** | |
| **Brown County (unincorporated areas)** | |
| *Moccasin Creek:* | |
| Approximately 120 feet upstream of an unnamed county road which is located approximately 5,650 feet upstream of Brown County Highway 13 | *1,302 |
| *Maple River:* | |
| Approximately 120 feet upstream of U.S. Highway 281 | *1,365 |
| Approximately 350 feet downstream of Main Street at the Town of Frederick | *1,369 |
| Approximately 170 feet upstream of the Chicago, Milwaukee, St. Paul, and Pacific Railroad Bridge located north of the Town of Frederick | *1,372 |
| *James River:* | |
| Approximately 1,000 feet upstream of S34/35, R62W, T125N | *1,291 |
| Approximately 230 feet upstream of 6th Avenue located west of the City of Columbia | *1,293 |
| **Maps are available for review** at the Brown County Courthouse, 25 Market Street, Aberdeen, South Dakota. Send comments to The Honorable June Schliebe, Chairperson, Brown County Board of Commissioners, 25 Market Street, Aberdeen, South Dakota 57401. | |
| **TENNESSEE** | |
| **Greenback (city), Loudon County** | |
| *Baker Creek:* | |
| Just upstream of Sinking Creek Road | *815 |
| Just upstream of County Road | *847 |
| **Maps available for inspection** at the Community Center, Greenback, Tennessee. | |
| Send comments to The Honorable Tom Peeler, Mayor, City of Greenback, Town Hall, P.O. Box 40, Greenback, Tennessee 37742. | |
| **TEXAS** | |
| **Caldwell (city), Burleson County** | |
| *Davidson Creek:* | |
| Approximately 250 feet downstream of Southern Pacific Railroad | *322 |
| Approximately 0.5 mile upstream from the confluence with Copperas Hollow Creek | *332 |
| *Davidson Creek Tributary 2:* | |
| At confluence with Davidson Creek | *331 |
| Approximately 40 feet upstream of Hill Street | *354 |
| *Copperas Hollow Creek:* | |
| At confluence with Davidson Creek | *331 |
| Approximately 1.3 miles upstream of State Route 36 | *367 |
| *Elm Branch:* | |
| At downstream corporate limits | *381 |
| At upstream corporate limits | *396 |
| *Elm Branch Tributary 1:* | |
| Approximately 0.8 mile downstream of corporate limits | *361 |
| At downstream side of 8th Street | *377 |
| At State Route 21 Limit of Detailed Study | *391 |
| **Maps available for inspection** at the City Hall, 107 S. Hill Street, Caldwell, Texas. | |
| Send comments to The Honorable William Broaddus, Mayor of the City of Caldwell, Burleson County, 107 S. Hill Street, Caldwell, Texas 77836. | |
| **Hood County (unincorporated areas)** | |
| *Brazos River:* | |
| Approximately 250 feet downstream of the downstream County boundary | *623 |
| Approximately 2.4 miles upstream of Leonard Bridge | *660 |
| *Lake Granbury:* | |
| Approximately 5.3 miles upstream of the confluence of Lusk Branch | *695 |
| Approximately 3.4 miles upstream of the confluence of Long Creek | *711 |
| *Lambert Branch:* | |
| Approximately 150 feet downstream of the most downstream crossing of the County boundary | *751 |
| Approximately 100 feet upstream of the most upstream crossing of the County boundary | *791 |
| *Rough Creek:* | |
| Approximately 0.7 mile upstream of the confluence with Lake Granbury | *704 |
| Approximately 1.3 miles upstream of the confluence with Lake Granbury | *724 |
| *Stream LB-1:* | |
| At the downstream County boundary | *722 |
| Approximately 0.4 mile upstream of the downstream County boundary | *726 |
| **Maps available for inspection** at the County Courthouse, Room 7, Granbury, Texas. | |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| Send comments to The Honorable Milton Meyer, Hood County Judge, Hood County Courthouse, Main Street, Granbury, Texas 76048. | |
| **Roscoe (city), Nolan County** | |
| *Lower West Playa Segment A:* Approximately 1,200 feet south of Texas and Pacific Railroad at west corporate limits | *2,382 |
| *Shallow Flooding Area:* 800 feet north Loop 237 at corporate limits | #1 |
| *Northwest Sector Playa:* Intersection of Cedar Street and 1st Street | *2,384 |
| *Shallow Flooding Area:* Intersection of Main Street and Second Street | #1 |
| *Shallow Flooding Area:* Approximately 400 feet southeast of corporate limits on Roscoe Snyder and Pacific Railroad | #1 |
| *Shallow Flooding Area:* Intersection of Ash Street and Sweetwater Street | #2 |
| *Shallow Flooding Area:* Approximately 75 feet north of Texas and Pacific Railroad at Oak Street (extended) | #3 |
| *Loop 237 Playa:* Approximately 200 feet west of the intersection of Cedar and Seventh Streets | *2,384 |
| *Shallow Flooding Area:* Approximately 50 feet west of Cedar Street and 10th Street | #1 |
| *East Playa:* Intersection of State Route 608 and 5th Street | *2,386 |
| *Shallow Flooding Area:* Intersection of State Route 608 and 10th Street | #1 |
| *Bandera Addition Playa:* Approximately 50 feet south of Interstate 20 at Cypress Street (extended) | *2,392 |
| **Maps available for inspection** at the City Hall, Roscoe, Texas. | |
| Send comments to The Honorable Ron Stovall, Mayor of the City of Roscoe, Nolan County, P.O. Box 340, Roscoe, Texas 79545. | |
| **WASHINGTON** | |
| **Almira (town), Lincoln County** | |
| *Corbett Draw Tributary:* | |
| At downstream corporate limits | *1,899 |
| Just upstream of Main Street | *1,911 |
| Just upstream of Burlington Northern Railroad | *1,919 |
| At upstream corporate limits | *1,930 |
| **Maps are available for review** at Town Hall, 19 North Third, Almira, Washington. Send comments to The Honorable Francis Evans, Mayor, Town of Almira, 19 North Third, P.O. Box 194, Almira, Washington 99103. | |
| **Davenport (city), Lincoln County** | |
| *Cottonwood Creek:* | |
| At downstream corporate limits | *2,358 |
| Just downstream of U.S. Highway 2 | *2,375 |
| Just downstream of Harker Street | *2,381 |
| About 75 feet upstream of Third Street | *2,388 |
| At upstream corporate limits | *2,391 |
| **Maps are available for review** at City Hall, 411 Morgan Street, Davenport, Washington. Send comments to The Honorable Edmond Hendrickson, Mayor, City of Davenport, 411 Morgan Street, P.O. Box 26, Davenport, Washington 99122. | |
| **Ephrata, (city), Grant County** | |
| *Dry Creek:* | |
| On Division Avenue N.W. | #1 |
| **Maps are available for review** at City Hall, 121 Alder S.W., Ephrata, Washington. Send comments to The Honorable O. Richard Matheny, Mayor, City of Ephrata, City Hall, 121 Alder S.W., Ephrata, Washington 98823. | |
| **Grant County (unincorporated areas)** | |
| *Parker Horn:* | |
| Approximately 240 feet downstream of Chicago, Milwaukee, St. Paul, and Pacific Railroad | *1,053 |
| Approximately 1,410 feet upstream of State Highway 17 | *1,057 |
| *Crab Creek (near the Town of Moses Lake):* | |
| Approximately 1,410 feet upstream of State Highway 17 | *1,057 |
| At Gloyd Seeps Water Recreation Area | *1,078 |
| *Crab Creek (near the Town of Wilson Creek):* | |
| Approximately 2,900 feet downstream of the Kappel Road Bridge | *1,278 |
| Approximately 5,160 feet upstream of the Kappel Road Bridge | *1,281 |
| **Maps are available for review** at the Grant County Public Works Department, 34 C Street, N.W., Ephrata, Washington. Send comments to The Honorable Donald Goodwin, Chairman, Grant County Board of Commissioners, P.O. Box 37, Ephrata, Washington 98823. | |
| **Lincoln County (unincorporated areas)** | |
| *Goose Creek:* | |
| Approximately 1,250 feet below downstream corporate limits of Town of Wilbur | *2,156 |
| Approximately 200 feet below downstream corporate limits of Town of Wilbur | *2,157 |
| *Corbett Draw Tributary:* | |
| Approximately 1,100 feet below downstream corporate limits of Town of Almira | *1,887 |
| Approximately 300 feet below downstream corporate limits of Town of Almira | *1,895 |
| Approximately 350 feet above upstream corporate limits of Town of Almira | *1,931 |
| *Cottonwood Creek:* | |
| Approximately 200 feet downstream of County Road bridge at Section line 16/17 in T25N, R37E | *2,345 |
| Approximately 200 feet below downstream corporate limits of City of Davenport | *2,355 |
| Approximately 330 feet above upstream corporate limits of City of Davenport | *2,391 |
| **Crab Creek:** | |
| Approximately 4,200 feet below downstream corporate limits of Town of Odessa | *1,533 |
| Approximately 350 feet below downstream corporate limits of Town of Odessa | *1,539 |
| Approximately 400 feet above upstream corporate limits of Town of Odessa | *1,559 |
| Approximately 2,600 feet above upstream corporate limits of Town of Odessa | *1,567 |
| *Negro Creek:* | |
| Approximately 1,950 feet below downstream corporate limits of City of Sprague | *1,894 |
| Approximately 150 feet above upstream corporate limits of City of Sprague | *1,903 |
| **Maps are available for review** at the Lincoln County Engineer's Office, 509 Morgan Street, Davenport, Washington. Send comments to the Honorable Donald Schibel, Chairman, Lincoln County Board of Commissioners, County Courthouse, 450 Logan Street, Davenport, Washington 99122. | |
| **Odessa (town), Lincoln County** | |
| *Crab Creek:* | |
| At downstream corporate limit | *1,540 |
| Just downstream of Alder Street | *1,545 |
| At centerline of Fifth Street | *1,550 |
| At confluence of Duck Creek | *1,552 |
| Just upstream of Dobson Road | *1,558 |
| **Maps are available for review** at Town Hall, 21 East First Avenue, Odessa, Washington. Send comments to the Honorable Dorothy Schauerman, Mayor, Town of Odessa, P.O. Box 218, 21 East First Avenue, Odessa, Washington 99159. | |
| **Sprague (city), Lincoln County** | |
| *Negro Creek:* | |
| At downstream corporate limit | *1,895 |
| Just downstream of North First Street | *1,898 |
| Approximately 100 feet upstream of First and D Streets intersection bridge | *1,900 |
| At upstream of corporate limits | *1,903 |
| **Maps are available for review** at City Hall, Second and C Streets, Sprague, Washington. Send comments to The Honorable Virg Meyer, Mayor, City of Sprague, P.O. Box 264, Second and C Streets, Sprague, Washington 99032. | |
| **Wilbur (town), Lincoln County** | |
| *Goose Creek (at Wilbur):* | |
| At downstream corporate limits | *2,157 |
| At centerline of West Street | *2,163 |
| Just upstream of Division Street | *2,168 |
| At centerline of U.S. Highway 2 | *2,174 |
| At upstream corporate limit | *2,176 |
| **Maps are available for review** at Town Hall, 14 N.W. Division, Wilbur, Washington. Send comments to The Honorable Donald Reid, Mayor, Town of Wilbur, Town Hall, P.O. Box 214, 14 N.W. Division, Wilbur, Washington 99185. | |
| **WEST VIRGINIA** | |
| **Friendly (town), Tyler County** | |
| *Ohio River:* For its entire length within community | *631 |
| **Maps available for inspection** at the Town Hall, Friendly, West Virginia. | |
| Send comments to The Honorable Arnold Jones, Mayor of the Town of Friendly, Tyler County, P.O. Box 95, Friendly, West Virginia 26146. | |
| **Middlebourne (town), Tyler County** | |
| *Middle Island Creek:* | |
| Approximately .9 mile downstream of Hadok Street (extended) | *685 |
| Approximately .6 mile upstream of Hadok Street (extended) | *688 |
| **Maps available for inspection** at the Town Hall, Main Street, Middlebourne, West Virginia. | |
| Send comments to The Honorable Steve Seago, Mayor of the Town of Middlebourne, Tyler County, P.O. Box 167, Middlebourne, West Virginia 26149. | |
| **Sistersville (city), Tyler County** | |
| *Ohio River:* For its entire length within community | *632 |
| **Maps available for inspection** at the City Building, 200 Diamond Street, Sistersville, West Virginia. | |
| Send comments to The Honorable Lester E. Leach, Mayor of the City of Sistersville, Tyler County, 200 Diamond Street, Sistersville, West Virginia 26175. | |
| **Tyler County (unincorporate areas)** | |
| *Ohio River:* | |
| Approximately 1.4 miles downstream of the confluence of Huffman Run | *629 |
| Approximately 1.9 miles upstream of the confluence of Owl Run | *634 |
| *Middle Island Creek:* | |
| Approximately 3.6 miles downstream of County Route 26 | *678 |
| Approximately 2.2 miles upstream of County Route 26 | *692 |
| **Maps available for inspection** at the County Courthouse, Middlebourne, West Virginia. | |
| Send comments to The Honorable Donald Van Camp, President of the Tyler County Commission, R.D. 2, Box 278, New Martinsville, West Virginia 26155. | |
| **WISCONSIN** | |
| **Montreal (city), Iron County** | |
| *West Fork Montreal River:* | |
| About 0.98 mile downstream from Soo Line Railway | *1,434 |
| About 850 feet upstream from State Highway 77 | *1,459 |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| About 1,100 feet upstream from State Highway 77 | *1,471 |
| Just downstream of Gile Dam | *1,478 |
| *Gile Flowage:* Entire shoreline | *1,491 |
| **Maps available for inspection** at the City Hall, 53 Wisconsin Avenue, Montreal, Wisconsin. | |
| Send comments to The Honorable James F. Barron, Mayor, City of Montreal, City Hall, 53 Wisconsin Avenue, Montreal, Wisconsin 54550. | |

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|

The proposed modified base (100-year) flood elevations for selected locations are:

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Arizona | Yuma County (Unincorporated Areas). | Wash A Alluvial Fan | Approximately 2,500 feet west of the intersection of Ken De Fortuna Drive and Annett De Fortuna Avenue. | None | #2 |
| | | | Approximately 1,000 feet downstream of Ken De Fortuna Drive. | None | #3 |
| | | | Approximately 3,600 feet north of Annett De Fortuna Avenue along Ken De Fortuna Drive. | None | #6 |
| | | Wash B Alluvial Fan | Approximately 1,200 feet east of the corner of Sections 1, 2, 11, and 12 in Township; 9S, Range 21W. | None | #1 |
| | | | Approximately 1,200 feet east of Ken De Fortuna Drive. | None | #2 |
| | | | Approximately 2,500 feet west of Ken De Fortuna Drive. | None | #3 |
| | | | Approximately 250 feet south of the corner of Sections 1, 2, 11, and 12 in Township 9S, Range 21W. | None | #4 |
| | | Wash C Alluvial Fan | At the corner of Sections 11, 12, 13, and 14 in Township 9S, Range 21W. | None | #2 |
| | | | At confluence with Fortuna Wash | None | #3 |
| Maps are available for review at the Yuma County Courthouse, 168 South Second Street, Yuma, Arizona. | | | | | |
| Send comments to The Honorable Earl Conner, Chairman, Yuma County Board of Supervisors, County Courthouse, 168 South Second Street, Yuma, Arizona 85364. | | | | | |
| Arkansas | Cleburne County, unincorporated areas. | Greers Ferry Lake | Entire length of shoreline | None | *492 |
| Maps available for inspection at the County Courthouse, Heber Springs, Arkansas. | | | | | |
| Send comments to The Honorable Harry Adcock, Cleburne County Judge, County Courthouse, Heber Springs, Arkansas 72543. | | | | | |
| California | City of Redlands, San Bernardino County. | San Timoteo Creek | Just upstream of Timoteo Canyon Road bridge | *1,295 | *1,299 |
| | | | 1,900 feet upstream of San Timoteo Canyon Road bridge. | *1,320 | *1,320 |
| | | | 5,000 feet upstream of San Timoteo Canyon Road bridge. | *1,357 | *1,358 |
| | | | 2,300 feet downstream of corporate limits | *1,386 | *1,391 |
| | | | At upstream corporate limits | *1,412 | *1,418 |
| | | Morey Wash | At Alabama Street | None | #1 |
| | | The Zanja | Upstream of Texas Street At Tennessee Street | *1,265 | #2 |
| Maps are avaiable for review at City Hall, Building and Safety Department, 30 Cajon Street, Redlands, California. | | | | | |
| Send comments to Mayor Carole Beswick, P.O. Box 2090, Redlands, California 92373. | | | | | |
| Colorado | Arapahoe County (unincorporated areas). | First Creek | At Interstate 70 | None | *5,503 |
| | | | Approximately 4,000 feet downstream of Smith Road. | None | *5,539 |
| | | | Approximately 100 feet downstream of Smith Road. | None | *5,559 |
| | | Murphy Creek | Approximately 3,100 feet downstream of Bump Road. | None | *5,663 |
| | | | Approximately 2,850 feet upstream of East Quincy Avenue. | None | *5,799 |
| | | | Approximately 3,500 feet downstream of Smokey Hill Road. | None | *5,987 |
| | | Piney Creek | At Liverpool Street | None | *5,814 |
| | | | Approximately 1,500 feet downstream of the confluence with Sampson Gulch. | None | *5,889 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | At Arapahoe/Elbert County Line | None | *5,989 |
| | | Cottonwood Creek | Approximately 700 feet downstream of East Dry Creek Road. | *5,724 | *5,723 |
| | | | At County Line Road | None | *5,786 |
| | | Little Dry Creek | 800 feet downstream of South Forest Street | *5,539 | *5,520 |
| | | | 50 feet downstream of South Kroner Way | None | *5,563 |
| | | Willow Creek | At South Holly Street | *5,539 | *5,520 |
| | | | At Homestead Parkway and Monalo Street | None | *5,618 |
| | | | At County Line Road | None | *5,708 |
| | | Spring Creek | At confluence with Willow Creek | None | *5,608 |
| | | | 425 feet downstream of East Mineral Avenue | None | *5,635 |
| | | | At County Line Road | None | *5,716 |
| | | Lone Tree Creek | 3,700 feet downsteam of Arapahoe Road | None | *5,627 |
| | | | 3,600 feet downstream of County Airport Runway. | None | *5,728 |
| | | | 200 feet upsteam of County Airport Runway | None | *5,837 |
| | | Green Gulch | At Orchard Road | None | *5,539 |
| | | | At South Quebec Street | None | *5,608 |
| | | Goldsmith Gulch | At East Orchard Road | None | *5,662 |
| | | | At East Arapahoe Road | None | *5,769 |
| | | Goldsmith Gulch West Tributary. | At East Orchard Road | None | *5,658 |
| | | | At East Pineview Avenue | None | *5,732 |
| | | Big Dry Creek Tributary A | At confluence with Big Dry Creek | None | *5,550 |
| | | | 100 feet downsteam of East Jamison Avenue | None | *5,610 |
| | | | At South University Boulevard | None | *5,661 |
| | | Lee Gulch | 700 feet upsteam of East Mineral Avenue | None | *5,575 |
| | | | At County Line Road | None | *5,663 |
| | | Cheery Creek | 1,380 feet downsteam of East Iliff Avenue | None | *5,420 |
| | | | 1,975 feet upstream of East Iliff Avenue | None | *5,434 |
| | | | At Arapahoe/Denver County Line | None | *5,453 |
| | | | 200 feet downsteam of confluence with Piney Creek. | *5,629 | *5,620 |
| | | | At confluence with Happy Canyon Creek | None | *5,679 |
| | | Dutch Creek | 250 feet downsteam of Platte Canyon Road | None | *5,369 |
| | | | At Arapahoe/Jefferson County Line | None | *5,426 |
| | | SJCD 6100 | 100 feet upsteam of Arapahoe County Line | None | *5,345 |
| | | | At Arapahoe/Jefferson County Line | None | *5,426 |
| | | SJCD 6200 | 100 feet upsteam of City of Littleton Corporate Limit. | None | *5,380 |
| | | | 25 feet downstreams of City of Littleton Corporate Limit. | None | 5,382 |
| | | | At Arapahoe/Jefferson County Line | None | 5,418 |
| | | South Platte River | Approximately 100 feet upstream of West Bowles Avenue. | $5,322 | None. |
| | | | Approximately 700 feet downstream of the confluence with SJCD 6100. | $5,337 | None. |
| | | | Approximately 780 feet uptream of the confluence with SJCD 6100. | $5,340 | None. |
| | | | Just downstream of State Route 470 | None | *5,365 |
| Maps are available for inspection at the Arapahoe County Planning Department, County Administration Building, 5334 S. Prince Street, Littleton, Colorado. Send comments to Mr. Robert Brooks, Chairman, Arapahoe County Commission, County Administration Building, 5334 S. Prince Street, Littleton, Colorado 80166. | | | | | |
| Colorado | City of Cherry Hills Village, Arapahoe County. | Quincy Gulch | Confluence of Blackmer Gulch | *5,411 | *5,411 |
| | | | Approximately 30 feet upstream of Bellaire Street. | *5,455 | *5,454 |
| | | | Approximately 40 feet downstream of Dahlia Avenue. | *5,495 | *5,494 |
| Maps are available for inspection at the Office of the Community Development Coordinator, City Hall, 2450 E. Quincy Avenue, Cherry Hills Village, Colorado. Send comments to Mayor John R. Duncan, Cherry Hills Village City Hall, 2450 E. Quincy Avenue, Englewood, Colorado 80010. | | | | | |
| Colorado | Columbine Valley (town), Arapahoe County. | South Platte River | Approximately 250 feet upstream of West Bowles Avenue. | *5,322 | None. |
| | | | Approximately 1,200 feet downstream of the confluence with Lee Gulch. | *5,330 | None. |
| | | | Approximately 1,900 feet downstream of Jackass Road. | *5,340 | None. |
| Maps are available for review at the Town Hall, 17A Fairway Lane, Littleton, Colorado. Send comments to Honorable Jay L. McGrew, Mayor, Town of Columbine Valley, 17A Fairway Lane, Littleton, Colorado 80111. | | | | | |
| Colorado | Englewood (city), Arapahoe County. | South Platte River | At Dartmouth Avenue | None | *5,267 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 420 feet downstream of West Hampden Avenue. | None | *5,267 |
| | | | Approximately 100 feet upstream of West Union Avenue. | *5,306 | None. |
| | | | Approximately 2,120 feet upstream of West Union Avenue. | *5,306 | None. |
| Maps are available for review at the Engineering Services Department, 3400 South Elati Street, Englewood, Colorado. Send comments to The Honorable Eugene Otis, Mayor, City of Englewood, 3400 South Elati Street, Englewood, Colorado 80110. | | | | | |
| Colorado | City of Greenwood Village, Arapahoe County. | Prentice Gulch | At South Holly Street | *5,516 | *5,517 |
| | | | Approximately 1,200 feet upstream of South Holly Street. | None | *5,519 |
| | | Greenwood Gulch | Just upstream of South Quebec Street | None | *5,609. |
| | | | Approximately 1,150 feet upstream of South Syracuse Street. | None | *5,666 |
| Maps are available for inspection at Engineering Department, City Hall, 6060 South Quebec Street, Greenwood Village, Colorado. Send comments to Mayor Rita Poundstone, City Hall, 6060 South Quebec Street, Greenwood Village, Colorado 80111–4591. | | | | | |
| Colorado | Sheridan (city) Arapahoe County. | South Platte River | Approximately 420 feet downstream of West Hampden Avenue. | None | *5,269 |
| | | | At the confluence of Bear Creek | None | *5,272 |
| | | | Approximately 1,340 feet downstream of West Oxford Avenue. | None | *5,273 |
| Maps are available for review at the Building Department, 4101 South Federal Boulevard, Sheridan, Colorado. Send Comments to the Honorable Roger Rowland, Mayor, City of Sheridan, 4101 South Federal Boulevard, Sheridan, Colorado 80110. | | | | | |
| Connecticut | Bloomfield, town, Hartford County. | Farmington River | Downstream corporate limits | **110 | *108 |
| | | | Approximately 0.48 mile upstream of State Route 187. | **118 | *116 |
| | | | Upstream corporate limits | **147 | *145 |
| | | North Branch of the Park River. | Downstream corporate limits | **87 | *86 |
| | | | Confluence of Wash & Beamans Brooks | **87 | *86 |
| | | Wash Brook | Confluence with Beamans Brook & Branch of the Park River. | **87 | *86 |
| | | | Upstream side of Tunxis Avenue | **129 | *127 |
| | | Beamans Brook | At confluence with Wash Brook and North Branch of the Park River. | **87 | *86 |
| | | | Approximately 0.22 mile upstream of Filley Street. | **94 | *95 |
| | | Tumbledown Brook | At confluence with Wash Brook | **115 | *116 |
| | | | Upstream side of Simsbury Road | **136 | *133 |
| | | | Approximately 300 feet upstream of Mountain Avenue. | None | *185 |
| | | | Approximately 0.24 mile upstream of Mountain Avenue. | None | *212 |
| | | Tributary A | At confluence with Wash Brook | **127 | *126 |
| | | | Approximately 400 feet downstream of West Newberry Road. | **157 | *155 |
| | | Tributary B | At confluence with Tributary A | **138 | *136 |
| | | | Just downstream of Woodland Avenue | **162 | *160 |
| | | Tributary C | At confluence with Tributary A | **141 | *139 |
| | | | Approximately 0.635 mile upstream of confluence with Tributary A. | **153 | *150 |
| | | Tributary D | At confluence with Beamans Brook | **90 | *91 |
| | | | Approximately 200 feet downstream of Blue Hills Flood Water Retarding Dam. | **95 | *93 |
| | | Tributary to Tumbledown Brook. | At confluence with Tumbledown Brook | None | *117 |
| | | | Approximately 700 feet upstream of Mountain Avenue. | None | *133 |
| | | Tumbledown Brook Channel | At confluence with Tumbledown Brook | **138 | *133 |
| | | | Approximately 0.29 mile upstream of Burr Road. | **196 | *194 |
| | | Tributary to North Branch of the Park River. | At downstream corporate limits | None | *66 |
| | | | Approximately 1.0 mile upstream of downstream corporate limits. | None | *101 |
| | | Mill Brook | At confluence with Barbers Pond | None | *118 |
| | | | Approximately 1.08 miles upstream of Old Iron Ore Road. | None | *168 |
| | | Griffin Brook | At confluence with Farmington River | None | *112 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 0.57 mile upstream of Terry Plains Road. | None | *184 |
| | | Filley Brook | At confluence with Wash Brook | None | *86 |
| | | | Approximately 0.18 mile upstream of Park Avenue. | None | *100 |

Maps available for inspection at the Town Engineer's Office, Bloomfield, Connecticut.

Send comments to The Honorable Gary Stenhouse, Town Manager of the Town of Bloomfield, Hartford County, P.O. Box 337, 800 Bloomfield Avenue, Bloomfield, Connecticut 06002.

| | | | | | |
|---|---|---|---|---|---|
| Florida | Unincorporated Areas of Alachua County. | Santa Fe River | At county boundary | None | *40 |
| | | | At Little Santa Fe Lake | None | *144 |
| | | At Little Santal Fe Lake | Along shoreline | None | *144 |
| | | Santa Fe Lake | Along shoreline | None | *144 |
| | | Lake Altho | Along shoreline | None | *144 |

Maps available for inspection at the County Planning Office, County Administration Building, Gainesville, Florida. Send comments to The Honorable Leveda Brown, Chairman, County Commission, Alachua County, County Administration Building, P.O. Drawer CC, Gainesville, Florida 32602.

| | | | | | |
|---|---|---|---|---|---|
| Florida | City of Fernandina Beach, Nassau County. | Atlantic Ocean | About 500 feet west of intersection of Jean Loffite Avenue and State Road AIA. | *11 | *10 |
| | | | About 300 feet east of the intersection of 3rd Street and Ocean Avenue. | *16 | *16 |

Maps available for inspection at the City Manager's Office, City Hall, Fernandina Beach, Florida. Send comments to The Honorable Ferris Jones, City Manager, City of Fernandina Beach, P.O. Box 668, Fernandina Beach, Florida 32034.

| | | | | | |
|---|---|---|---|---|---|
| Florida | Unincorporated areas of Nassau County. | Atlantic Ocean | Just northwest of U.S. Route 17 bridge over Nassau River. | *12 | *8 |
| | | | Just north of Fort Clinch | *16 | *16 |

Maps available for inspection at the County Engineer's Office, Five Points Building, Fernandina Beach, Florida. Send comments to The Honorable Gene Blackwelder, Chairman, County Commission, Nassau County, P.O. Box 1010, Fernandina Beach, Florida 32034.

| | | | | | |
|---|---|---|---|---|---|
| Florida | City of Port Orange, Volusia County. | Spruce Creek | Just downstream of Airport Road | *5 | *5 |
| | | | About 1.6 miles upstream of Interstate 95 | None | *6 |
| | | | About 3.0 miles downstream of Interstate 95 | *5 | *6 |
| | | B-19 Canal | About 2200 feet downstream of confluence of B-19 Canal Tributary No. 1. | None | *23 |
| | | | Just downstream of confluence of B-19 Tributary No. 5. | None | *29 |
| | | B-19 Canal Tributary No. 1 | At mouth | None | *24 |
| | | | About 1.0 mile upstream of mouth | None | *27 |
| | | B-19 Canal Tributary No. 2 | At mouth | None | *27 |
| | | | About 2400 feet upstream of mouth | None | *29 |
| | | Atlantic Ocean | About 2100 feet east of the intersection of Dunlawton Avenue and the Florida East Coast Railroad. | *8 | *9 |

Maps available for inspection at the City Hall, Port Orange, Florida. Send comments to The Honorable Ken Parker, Mayor, City of Port Orange, P.O. Box 5, Port Orange, Florida 32029.

| | | | | | |
|---|---|---|---|---|---|
| Florida | Unincorporated Areas of Volusia County. | Spruce Creek | Just upstream of Florida East Coast Railroad | *7 | *6 |
| | | | About 2800 feet upstream of unnamed road | None | *22 |
| | | Spruce Creek Tributary A | At mouth | None | *6 |
| | | | About 0.85 mile upstream of mouth | None | *18 |
| | | B-19 Canal | About 400 feet downstream of confluence of B-19 Canal Tributary No. 1. | None | *24 |
| | | | About 200 feet upstream of confluence of B-19 Canal Tributary No. 3. | None | *29 |
| | | B-19 Canal Tributary No. 1 | At mouth | None | *24 |
| | | | About 950 upstream of Interstate 95 (upstream crossing). | None | *28 |
| | | U.S. 92 Canal | At mouth | None | *24 |
| | | | About 1,000 feet upstream of Eleventh Street | None | *30 |
| | | Wickwire Canal | At mouth | None | *19 |
| | | | Just upstream of Interstate 95 | None | *20 |
| | | Bellevue Canal | At mouth | None | *24 |
| | | | About 3,150 feet upstream of Thames Road | None | *29 |
| | | Thayer Channel | At mouth | None | *21 |
| | | | About 0.94 mile upstream of Eleventh Street | None | *34 |
| | | Thayer Channel Tributary | At mouth | None | *21 |
| | | | About 1,000 feet upstream of mouth | None | *24 |
| | | Wally Hoffmeyer Canal | At mouth | None | *19 |
| | | | Just upstream of Interstate 95 | None | *22 |
| | | St. Johns River | About 9.8 miles downstream of State Road 40 | None | *7 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Just downstream of county boundary | None | *11 |
| | | Bulow Creek | About 1.9 miles upstream of mouth | *4 | *4 |
| | | | About 1.6 miles upstream of Washington Avenue. | *4 | *6 |
| | | Spruce Creek Tributary 1 | At mouth | None | *10 |
| | | | About 1,300 feet upstream of Samsula Road | None | *27 |
| | | Spruce Creek Tributary 2 | At mouth | None | *11 |
| | | | About 2,950 feet upstream of mouth | None | *18 |
| | | Eleventh Street Canal | At mouth | None | *15 |
| | | | About 2,400 feet upstream of confluence of Eleventh Street Canal Tributaries 1 and 2. | None | *28 |
| | | Eleventh Street Canal Tributary 1. | At mouth | None | *26 |
| | | | About 1.1 miles upstream of mouth | None | *27 |
| | | Eleventh Street Canal Tributary 2. | At mouth | None | *26 |
| | | | About 1.0 mile upstream of mouth | None | *28 |
| | | Eleventh Street Canal Tributary 2A. | At mouth | None | *28 |
| | | | About 2,400 feet upstream of mouth | None | *29 |
| | | Eleventh Street Canal Tributary 3. | At mouth | None | *27 |
| | | | Just upstream of Jimmy Ann Drive | None | *27 |
| | | Shooting Range Canal | Just upstream of Interstate 95 | None | *23 |
| | | | About 2,150 feet upstream of Williamson Road | None | *28 |
| | | Tomoka River | At mouth | *4 | *4 |
| | | | About 5,500 feet upstream of U.S. Route 92 | None | *25 |
| | | Atlantic Ocean/Intra-coastal waterway. | Just west of intersection of John Anderson Drive and Highbridge Road. | *4 | *4 |
| | | | About 250 feet east of State Road A1A, south of the Flagler County/Volusia County Boundary. | *11 | *13 |
| Maps available for inspection at the Development Office, 110 West Indiana Avenue, Deland, Florida. Send comments to The Honorable Thomas C. Kelly, County Manager, Volusia County, P.O. Box 429, Deland, Florida 32721. | | | | | |
| Georgia | Unicorporated Areas of Camden County. | Atlantic Ocean | About 5000 feet east of the confluence of Satilla River and Dover Creek. | *20 | *20 |
| | | | Just west of CSX bridge over Catfish Creek | *12 | *8 |
| Maps available for inspection at the Planning and Building Department, Camden County Branch Office, Highway 40 and Gross Road, Kingsland, Georgia. Send comments to The Honorable Jack Sutton, Chairman, County Board of Commissioners, Camden County, P.O. Box 99, Woodbine, Georgia 31569. | | | | | |
| Georgia | Unincorporated Areas of Glynn County. | Atlantic Ocean | About 1500 feet north of Mosquito Creek mouth (on the open coast). | *21 | *21 |
| | | | At confluence of College Creek with Turtle River. | *14 | *12 |
| Maps available for inspection at the Community Development Department, Glynn County Office Building, 1803 Gloucester Street, Brunswick, Georgia. Send comments to The Honorable W. Harold Pate, Chairman, County Board of Commissioners, Glynn County, P.O. Box 879, Brunswick, Georgia 31521. | | | | | |
| Georgia | Jekyll Island State Park Authority, Glynn County. | Atlantic Ocean | About 2000 feet north of the intersection of South Beachview Drive and Morgan. | *13 | *12 |
| | | | About 600 feet east of the intersection of Major Horton Road and North Beachview Drive. | *21 | *21 |
| Maps available for inspection at the Office of the Director of Services and Development, 375 Riverview Drive, Jekyll Island, Georgia. Send comments to The Honorable George Chamblis, Executive Director, Jekyll Island State Park Authorty, 375 Riverview Drive, Jekyll Island, Georgia 31520. | | | | | |
| Georgia | City of Kingsland, Camden County. | Atlantic Ocean | Along Little Catfish Creek about 0.45 mile downstream of Clark Bluff Road. | *12 | *8 |
| | | | Along Miller Branch about 2000 feet south southwest of the intersection of Kingsland-St. Marys Road and County Route 78. | *12 | *9 |
| Maps available for inspection at the Building Inspector's Office, City Hall, Kingsland, Georgia. Send comments to The Honorable Keith Dixon, Mayor, City of Kingsland, P.O. Box 397, Kingsland, Georgia 31548. | | | | | |
| Georgia | City of St. Marys, Camden County. | Atlantic Ocean/St. Marys River. | About 3000 feet east of intersection of Ready Street and Weed Street. | *15 | *13 |
| | | | At the intersection of Bartlett Street and Hall Street. | *11 | *10 |
| Maps available for inspection at the Planning and Building Inspection Department, City Hall, 412 Osborne Street, St. Marys, Georgia. Send comments to The Honorable Ward Hernandez, Mayor, City of St. Marys, 418 Osborne Street, St. Marys, Georgia 31558. | | | | | |
| Georgia | City of Woodbine, Camden County. | Atlantic Ocean | At intersection of Georgia Avenue and 8th Street. | *14 | *11 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the City Manager's Office, City Hall, Woodbine, Georgia. Send comments to The Honorable Donald Mitchell, Mayor, City of Woodbine, P.O. Box 26, Woodbine, Georgia 31569. | | | | | |
| Illinois | City of Aurora, Kane and DuPage Counties. | Indian Creek | At mouth | *636 | *636 |
| | | | Just downstream of High Street | *650 | *652 |
| | | | Just upstream of High Street | *654 | *658 |
| | | | About 2300 feet upstream of Bilter Road | *726 | *729 |
| | | Selmarten Creek | At confluence with Indian Creek | *715 | *716 |
| | | | About 3100 feet upstream of Selmarten Road | *715 | *720 |
| | | South Tributary | At mouth | None | *684 |
| | | | About 700 feet upstream of mouth | None | *688 |
| | | Tributary B | Just upstream of Farnsworth Avenue | None | *712 |
| | | | About 3700 feet upstream of Farnsworth Avenue. | None | *716 |
| Maps available for inspection at the City Hall, 44 East Downer Place, Aurora, Illinois. Send comments to The Honorable David Pierce, Mayor, City of Aurora, City Hall, 44 East Downer Place, Aurora, Illinois 60507. | | | | | |
| Illinois | Village of Maywood, Cook County. | Silver Creek | Within community | None | *621 |
| | | Des Plaines River | Just upstream of Eisenhower Expressway | None | *618 |
| | | | About 600 feet upstream of confluence of Silver Creek. | None | *621 |
| Maps available for inspection at the Office of Community Development, Public Works Building, 20 Madison Street, Maywood, Illinois. Send comments to The Honorable Joe Freelon, Mayor, Village of Maywood, Municipal Building, 115 South Fifth Avenue, Maywood, Illinois 60153-1390. | | | | | |
| Illinois | Village of River Forest, Cook County. | Des Plaines River | Just upstream of Madison Street | None | *619 |
| | | | Just downstream of North Avenue | None | *622 |
| Maps available for inspection at the Public Works Department, Village Hall, 400 Park Avenue, River Forest, Illinois. Send comments to The Honorable Thomas Cusack, Jr., Village President, Village of River Forest, Village Hall, 400 Park Avenue, River Forest, Illinois 60305-1798. | | | | | |
| Illinois | City of Watseka, Iroquois County. | Sugar Creek | At confluence with Iroquois River | *624 | *630 |
| | | | About 2900 feet upstream of Union Pacific railroad. | *632 | *635 |
| | | Iroquois River | At confluence of Sugar Creek | *624 | *630 |
| | | | About 1.6 miles upstream of Union Pacific railroad. | None | *631 |
| Maps available for inspection at the Collector's Office, City Hall, 228 East Walnut Street, Watseka, Illinois. Send comments to The Honorable Ernest A. Grove, Mayor, City of Watseka, City Hall, 228 East Walnut Street, Watseka, Illinois 60970. | | | | | |
| Kentucky | City of Elizabethtown, Hardin County. | Valley Creek | About 1,500 feet downsteam of Gaither Station Road. | *679 | *680 |
| | | | Just downstream of Old Nicholas Street | *686 | *686 |
| Maps available for inspection at the City Hall, Elizabethtown, Kentucky. Send comments to The Honorable Michael B. Carroll, Mayor, City of Elizabethtown, P.O. Box 550, Elizabethtown, Kentucky 42701. | | | | | |
| Michigan | Village of Colon, St. Joseph County. | St. Joseph River | Within community | None | *844 |
| | | Swan Creek | At mouth | None | *844 |
| | | | Just downstream of Swan Creek Dam | None | *846 |
| | | | Just upstream of Swan Creek Dam | None | *852 |
| | | | About 1.1 miles upstream of State Street | None | *852 |
| | | Palmer Lake | Along shoreline | None | *852 |
| | | Sturgeon Lake | Along shoreline | None | *844 |
| Maps available for inspection at the Village Hall, 110 North Blackstone Avenue, Colon, Michigan. Send comments to The Honorable Russell Tanis, Village President, Village of Colon, 110 North Blackstone Avenue, Box 42, Colon, Michigan 49040. | | | | | |
| Mississippi | Town of Enterprise, Clarke County. | Chickasawhay River | About 0.66 mile downstream of Bridge Street | None | *249 |
| | | | About 1900 feet upstream of Bridge Street | None | *255 |
| Maps available for inspection at the Town Hall, Enterprise, Mississippi. Send comments to The Honorable Christine J. Buckley, Mayor, Town of Enterprise, P.O. Box 266, Enterprise, Mississippi 39330. | | | | | |
| New York | Ashland, town, Greene County. | Batavia Kill | At downstream corporate limits | None | *1,314 |
| | | | At confluence of Lewis Creek | None | *1,355 |
| | | | At confluence of West Hollow Brook | None | *1,415 |
| | | | Approximately 750 feet downstream of Jewett Road. | None | *1,440 |
| | | | At upstream corporate limits | None | *1,462 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the Town Hall, Route 23, Ashland, New York. Send comments to The Honorable Richard E. Tompkins, Supervisor of the Town of Ashland, Greene County, Town Hall, Box 129, Ashland, New York 12047. | | | | | |
| New York | Ramapo, town, Rockland County. | Brian Brook | At confluence with Mahwah River | None | *400 |
| | | | At downstream side of State Route 306 | None | *456 |
| | | Hungry Hollow Brook | At downstream corporate limits | None | *477 |
| | | | At upstream side of Interstate Routes 87 & 287 culvert. | None | *483 |
| | | Mahwah River | At downstream corporate limits | None | *337 |
| | | | At upstream side of Grandview Avenue | None | *353 |
| | | | At confluence of Willow Tree Brook | None | *361 |
| | | | Upstream side of Catamount Farm Dam | None | *398 |
| | | | At upstream side of Mountain Road | None | *407 |
| | | | At upstream corporate limits | None | *426 |
| | | Pascack Brook | At downstream corporate limits | *410 | $406 |
| | | | Approximately 20 feet downstream of Pascack Road. | *431 | *429 |
| | | | At downstream side of Eckerson Road | *446 | *446 |
| | | | Approximately 30 feet upstream of Rockland Parkway (1st upstream crossing). | None | *461 |
| | | | Approximately 50 feet downstream of Abandoned Railroad. | None | *465 |
| | | | Approximately 150 feet upstream of Francis Place (2nd upstream crossing). | None | *477 |
| | | | Approximately 20 feet upstream of State Route 45. | None | *489 |
| | | | At the upstream side of the Ida Road Backyard Foot Bridge. | None | *492 |
| | | | At the upstream corporate limits | None | *498 |
| | | | Approximately 220 feet upstream of Ralph Boulevard. | None | *529 |
| | | | At the upstream side of the Kearsing Parkway | None | *557 |
| | | | Approximately 50 feet upstream of Viola Road | None | *587 |
| | | East Branch Saddle River | At the downstream corporate limits | None | *284 |
| | | | At the downstream side of the Twin Arch Cemetery Driveway. | None | *318 |
| | | | At the upstream side of South Monsey Road | None | *338 |
| | | | At the downstream side of Regina Road | None | *390 |
| | | | At the downstream side of Interstate Routes 87 & 287. | None | *447 |
| | | | At the upstream side of Interstate Routes 87 & 287. | None | *468 |
| | | West Branch Saddle River | At corporate limits | None | *324 |
| | | | Approximately 1,650 feet downstream of Beaver Hollow Lane. | None | *374 |
| | | | Approximately 60 feet downstream of Beaver Hollow Lane. | None | *395 |
| | | | At the upstream side of Christmas Hill Road | None | *419 |
| | | | At the downstream side of East Blossom Road | None | *460 |
| | | | At the downstream side of State Route 59 | None | *501 |
| | | | At the downstream side of the Masonic Camp Pond Dam. | None | *525 |
| | | Tributary to West Branch Saddle River. | At the downstream corporate limits | None | *334 |
| | | | At the downstream side of the dam | None | *383 |
| | | | At the upstream side of Rustic Drive | None | *415 |
| | | | Approximately 240 feet downstream of Victoria Drive. | None | *439 |
| | | Spook Rock Brook | At the upstream of the Orchard Hills Dam | None | *457 |
| | | | At the downstream corporate limits | None | *471 |
| | | | At the upstream side of Quince Lane | None | *511 |
| | | | At the upstream side of Viola Road | None | *564 |
| | | | Approximately 250 feet upstream of Smolley Drive. | None | *601 |
| | | Willow Tree Brook | At the confluence with the Mahwah River | None | *361 |
| | | | At U.S. Route 202 | None | *365 |
| Maps available for inspection at the Office of the Town Clerk, Town Hall, Ramapo, New York. Send comments to The Honorable Herbert Reisman, Supervisor of the Town of Ramapo, Rockland County, 237 Route 59, Suffern, New York 10901. | | | | | |
| North Carolina | City of Greensboro, Guilford County. | South Buffalo Creek | About 0.7 mile downstream of Interstate 85 | *718 | *717 |
| | | | Just downstream of Wendover Avenue | None | *828 |
| | | | Just upstream of Wendover Avenue | None | *842 |
| | | | About 4,600 feet upstream of Big Tree Way | None | *869 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | North Buffalo Creek | About 3,400 feet downstream of confluence of Muddy Creek. | *708 | *708 |
| | | | Just downstream of Walker Avenue | *793 | *793 |
| | | | Just upstream of Walker Avenue | *798 | *798 |
| | | Muddy Creek | At mouth | *713 | *712 |
| | | | Just downstream of East Bessemer Avenue | None | *749 |
| | | Mile Run Creek | At mouth | *728 | *729 |
| | | | Just upstream of Ashe Street | None | *763 |
| | | Ryan Creek | At mouth | None | *734 |
| | | | Just downstream of Glendale Drive | None | *778 |
| | | Twin Lakes Tributary | At mount | None | *751 |
| | | | About 300 feet upstream of Yow Road (just downstream of dam). | None | *774 |
| | | | About 450 feet upstream of Yow Road (just upstream of dam). | None | *785 |
| | | South Buffalo Creek Tributary A. | At mouth | None | *805 |
| | | | Just downstream of Wendover Avenue | None | *816 |
| | | | Just upstream of Wendover Avenue | None | *824 |
| | | | Just downstream of Tower Road | None | *853 |
| | | | Just upstream of Tower Road | None | *865 |
| | | | About 3,000 feet upstream of Tower Road | None | *889 |
| | | South Buffalo Creek Tributary B. | At mouth | None | *811 |
| | | | Just downstream of Edwardia Drive | None | *818 |
| | | | Just upstream of Edwardia Drive | None | *825 |
| | | | Just downstream of Wendover Avenue | None | *826 |
| | | | Just upstream of Wendover Avenue | None | *831 |
| | | | About 1.33 miles upstream of Carnegie Place | None | *885 |
| | | North Buffalo Creek Tributary A. | At mounth | None | *758 |
| | | | Just downstream of Wendover Avenue | None | *763 |
| | | | Just upstream of Wendover Avenue | None | *769 |
| | | | About 2,400 feet upstream of Bryan Boulevard | None | *808 |
| | | Horsepen Creek | About 750 feet downstream of U.S. Route 220 | None | *753 |
| | | | About 2,500 feet upstream of Stage Coach Trail. | None | *822 |
| | | East Fork, Deep River | About 2,500 feet downstream of South Regional Road. | None | *815 |
| | | | About 2,500 feet upstream of South Regional Road. | None | *832 |
| | | Richland Creek | About 3,500 feet downstream of Lawndale Drive. | None | *756 |
| | | | Just upstream of Lawndale Drive | None | *773 |
| | | Bull Run Creek | About 2,900 feet downstream of confluence of Bull Run Tributary. | None | *770 |
| | | | Just downstream of Concrete Dam | None | *783 |
| | | | Just upstream of Concrete Dam | *798 | *796 |
| | | | About 3,250 feet upstream of Concrete Dam | None | *801 |
| | | Bull Run Tributary | At mouth | None | *778 |
| | | | About 750 feet upstream of Horse Path | None | *782 |

Maps available for inspection at the City Hall, Greensboro, North Carolina. Send comments to The Honorable Vic M. Nussbaum, Mayor, City of Greensboro, P.O. Drawer W-2, Greensboro, North Carolina 27402.

| | | | | | |
|---|---|---|---|---|---|
| North Dakota | City of Valley city Barnes County. | Sheyenne River | At Sunrise Drive | *1,219 | *1,215 |
| | | | Approximately 350 feet downstream of Interstate 94. | *1,220 | *1,218 |
| | | | Approximately 1,150 feet downstream of 3rd Avenue Southeast. | *1,222 | *1,222 |
| | | | Approximately 600 feet upstream of 6th Street Northeast. | *1,224 | *1,224 |
| | | | Approximately 6500 feet upstream of 5th Avenue Northeast. | *1,227 | *1,226 |

Maps are available for review at City Hall, 220 Third Street, N.E., Valley City, North Dakota.

Send comments to Mr. Dale Olson, President, Valley City Commission, P.O. Box 390, Valley City, North Dakota 58072.

| | | | | | |
|---|---|---|---|---|---|
| Ohio | City of Rittman, Wayne and Medina Counties. | Chippewa Creek | About 0.4 mile downstream of State Route 57 | *956 | *957 |
| | | | About 1,000 feet upstream of confluence of Tommy Run. | *958 | *958 |
| | | River Styx | At mouth | *956 | *957 |
| | | | About 0.6 mile upstream of East Sunset Drive | *961 | *962 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | Landis Ditch | At mouth About 0.37 mile upstream of North Main Street. | *978 | *981 |
| Maps available for inspection at the City Manager's Office, 30 North Main Street, Rittman, Ohio. | | | | | |
| Send comments to The Honorable Jerry Badders, Mayor, City of Rittman, 30 North Main Street, Rittman, Ohio 44270. | | | | | |
| Oklahoma | Miami, City Ottawa County. | Tar Creek | At confluence with Neosho River | *772 | *774 |
| | | | At confluence of Quail Creek | *772 | *774 |
| | | | Approximately 500 feet downstream of 22nd Avenue. | *777 | *778 |
| | | | At D street | None | *778 |
| | | Quail Creek | At confluence with Tar Creek | *772 | *774 |
| | | | At Washington Street | *772 | *774 |
| | | | At corporate limits | *779 | *779 |
| Maps available for inspection at the Civic Center, 129 5th Street N.W., Miami, Oklahoma. | | | | | |
| Send comments to The Honorable William E. Goodman, Mayor of the City of Miami, Ottawa County, P.O. Box 309, Miami, Oklahoma 74355. | | | | | |
| Oklahoma | Ponca City City Kay County. | Arkansas River | At intersection 12th Street and Edwards Avenue. | None | *926 |
| | | | At intersection of Lake Road and Rosedale Drive. | None | *932 |
| | | Tributary D | At confluence with Arkansas River | None | *930 |
| | | Tributary H | At confluence with Arkansas River | None | *926 |
| | | | Approximately 450 feet downstream of Twelfth Street. | None | *929 |
| | | Tributary I | At Eleventh Street | None | *926 |
| | | | Approximately 500 feet downstream of Seventh Street. | None | *933 |
| | | Tributary W | At downstream corporate limits | None | *939 |
| | | | At West Ponca Lake Spillway | None | *990 |
| Maps available for inspection at the City Hall, Ponca City, Oklahoma. | | | | | |
| Send comments to The Honorable Carl Balcer, Mayor of the City of Ponca City, Kay County, P.O. Box 1450, Ponca, Oklahoma 74602. | | | | | |
| Pennsylvania | Neville, Township, Allegheny County. | Ohio River | Downstream corporate limits | *715 | *718 |
| | | | Upstream corporate limits | *722 | *724 |
| | | Ohio River Back Channel | Downstream corporate limits | *715 | *717 |
| | | | Upstream corporate limits | *722 | *724 |
| Maps available for inspection at the Neville Municipal Building, 3rd and Grand Streets, Pittsburgh, Pennsylvania. | | | | | |
| Send comments to The Honorable Robert Schuty, Chairman of the Township of Neville Board of Commissioners, Allegheny County, 3rd and Grand Streets, Pittsburgh, Pennsylvania 15225. | | | | | |
| South Carolina | Town of Atlantic Beach, Horry County. | Atlantic Ocean | At intersection of Atlantic Street and 1st Avenue. | *14 | *15 |
| | | | Along shoreline | *20 | 22 |
| Maps available for inspection at the Town Hall, Atlantic Beach, South Carolina. Send comments to The Honorable Joe Montgomery, Mayor, Town of Atlantic Beach, Town Hall, P.O. Box 1425, Atlantic Beach, South Carolina 29598. | | | | | |
| South Carolina | Town of Briarcliffe Acres, Horry County. | Atlantic Ocean | At intersection of Ocean View Drive and Cabana Road. | *13 | *15 |
| | | | Along Shoreline | *13 | *22 |
| Maps available for inspection at the 79 Cedar Lane, Briarcliffe Acres, South Carolina. Send comments to The Honorable Howard Tolley, Mayuor, Town of Briarcliffe, Acres, Town Hall, P.O. Box 1250, North Myrtle Beach, South Carolina 29598. | | | | | |
| South Carolina | Town of Conway, Horry County. | Altman Branch | Within community | None | *22 |
| | | Crab Tree Swamp | Abouth 2800 feet downstream of CSX railroad | *14 | *12 |
| | | | About 500 feet upsteam of U.S. Route 501 | None | *16 |
| | | Crab Tree Swamp Tributary | At mouth | None | *12 |
| | | | Just upsteam of Sixteenth Avenue | None | *21 |
| | | Kingston Lake Swamp | Within community | *14 | *12 |
| | | Run of Plum Branch | At mouth | None | *13 |
| | | | About 3300 feet upsteam of mouth | None | *24 |
| | | Waccamaw River | About 0.9 mile downsteam of U.S. Route 501 | *10 | *10 |
| | | | About 600 feet upsteam of Main Street | *14 | *11 |
| Maps available for inspection at the City Hall, Conway, South Carolina. Send comments to The Honorable Allan P. Blum, City Administrator, Town of Conway, City Hall, P.O. Box 1075, Conway, South Carolina 29526. | | | | | |
| South Carolina | Unincorporated Areas of Horry County. | Altman Branch | At mouth | None | *16 |
| | | | Just downstream of Dirt Road | None | *31 |
| | | Bear Swamp | About 1730 feet downstream of U.S. Route 701. | None | *9 |
| | | | About 2900 feet upsteam of State Route 110 | None | *21 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | Bear Swamp Tributary | At mouth | None | *11 |
| | | | About 1460 feet upstream of mouth | None | *17 |
| | | Baiter Swamp | At mouth | None | *18 |
| | | | About 4400 feet upsteam of confluence with Bear Swamp. | None | *21 |
| | | Collins Creek | About 2.4 miles downstream of State Route 707. | *7 | *7 |
| | | | Just downstream of Unnamed Road | *7 | *22 |
| | | Collins Creek Tributary | At mouth | None | *10 |
| | | | About 2000 feet upstream of mouth | None | *17 |
| | | Crab Tree Swamp | At mouth | *14 | *12 |
| | | | Just upstream of State Route 165 | *17 | *19 |
| | | Crab Tree Swamp Tributary 1 | At mouth | None | *16 |
| | | | Just upstream of U.S. Route 501 | None | *30 |
| | | Crab Tree Swamp Tributary 2 | At mouth | None | *17 |
| | | | Just upstream of U.S. Route 378 | None | *29 |
| | | Crab Tree Swamp Tributary 3 | At mouth | None | *17 |
| | | | Just upstream of Route 501 | None | *32 |
| | | Cross Swamp | At mouth | None | *21 |
| | | | About 1.56 miles upstream of U.S. Route 501 | None | *33 |
| | | Grier Swamp | At mouth | None | *12 |
| | | | About 0.5 mile upstream of State Route 106 | None | *13 |
| | | Jenkins Swamp | About 1300 feet downstream of confluence of Jenkins Swamp Tributary. | None | *32 |
| | | | About 1.5 miles upstream of confluence of Jenkins Swamp Tributary. | None | *39 |
| | | Jenkins Swamp Tributary | At mouth | None | *33 |
| | | | Just downstream of State Route 29 | None | *41 |
| | | Kingston Lake Swamp | At mouth | *14 | *12 |
| | | | Just downstream of State Route 19 | None | *24 |
| | | Run of Plum Branch | At mouth | None | *13 |
| | | | About 1.1 miles upstream of mouth | None | *29 |
| | | Socastee Swamp | At mouth | None | *6 |
| | | | Just downstream of CSX railroad | None | *22 |
| | | Waccamaw River | About 1.2 miles downstream of confluence of Prince Creek. | *7 | *5 |
| | | | About 1.1 miles upstream of Unnamed Road | None | *16 |
| | | Waccamaw River Tributary 1 | Just downstream of State Route 544 | None | *24 |
| | | | About 2,850 feet upstream of confluence of Waccamaw River Tributary 2. | None | *37 |
| | | Waccamaw River Tributary 2 | At mouth | None | *30 |
| | | | About 1,900 feet upstream of Fox Hollow Subdrive. | None | *37 |
| | | Waccamaw River Tributary 3 | Just upstream of Unnamed Road | None | *13 |
| | | | Just upstream of State Route 544 | None | *37 |
| | | Waccamaw River Tributary 4 | At mouth | None | *19 |
| | | | About 0.93 mile upstream of mouth | None | *38 |
| | | Unnamed Stream | About 1400 feet upstream of U.S. Route 17 | None | *18 |
| | | Waccamaw River Tributary (near Cox Ferry). | About 2800 feet downstream of Unnamed Road. | None | *18 |
| | | | Just downstream of State Route 544 | None | *43 |
| | | Waccamaw River Tributary (at Ransom's Bluff). | Just upstream of State Route 136 | None | *9 |
| | | | Just upstream of Dirt Road | None | *21 |
| | | Willow Springs Branch | At mouth | None | *12 |
| | | | About 0.93 mile upstream of mouth | None | *28 |
| | | Withers Swash | Just upstream of 3rd Avenue South | None | *14 |
| | | | Just downstream of CSX railroad | None | *17 |
| | | Withers Swash Tributary 2 | Just upstream of 8th Avenue North | None | *21 |
| | | | Just downstream of 10th Avenue North | None | *23 |
| | | Withers Swash Tributary 3 | At mouth | None | *15 |
| | | | Just downstream of Rale Path Street | None | *24 |
| | | Atlantic Ocean/Intercoastal Waterway. | About 2000 feet south of Intersection of Mill Pond Road and Peach Tree Road. | *7 | *5 |
| | | | About 400 feet east of Intersection of Ocean Boulevard and Cypress Avenue. | *22 | *23 |

Maps available for inspection at the County Courthouse, Conway, South Carolina. Send comments to The Honorable M.L. Love, Administrator, Horry County, County Courthouse, P.O. Box 1236, Conway, South Carolina 29526.

| | | | | | |
|---|---|---|---|---|---|
| South Carolina | City of Myrtle Beach, Horry County. | Atlantic Ocean | Just north of the intersection of The King's Boulevard and Ocean Boulevard. | None | *13 |
| | | | Along shoreline | *20 | *23 |
| | | Intercoastal Waterway | Within community | *7 | *7 |
| | | Withers Swash | Just upstream of 3rd Avenue South | None | *14 |
| | | | Just downstream of CSX railroad | None | *17 |
| | | Withers Swash Tributary 1 | Just upstream of 5th Avenue South | None | *13 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | About 1,100 feet upstream of 13th Avenue South. | None | *20 |
| | | Withers Swash Tributary 2 | At mouth | None | *15 |
| | | | Just downstream of 10th Avenue North | None | *23 |
| | | Withers Swash Tributary 3 | At mouth | None | *15 |
| | | | Just downstream of State Route 84 | None | *15 |
| | | | Just upstream of State Route 84 | None | *20 |
| | | | About 1,150 feet upstream of Cannon Road | None | *22 |
| | | Singleton Lake | Within community | None | *13 |
| Maps available for inspection at the City Hall, Myrtle Beach, South Carolina. Send comments to The Honorable Richard Marvin, City Manager, City of Myrtle Beach, City Hall, P.O. Box 2468, Myrtle Beach, South Carolina 29577. | | | | | |
| South Carolina | Town of North Myrtle Beach, Horry County. | Atlantic Ocean | At intersection of U.S. Route 17 and 46th Avenue South. | None | *13 |
| | | | Along shoreline | *20 | *22 |
| | | Unnamed Stream | About 800 feet upstream of Hillside Drive | None | *12 |
| | | | Just downstream of U.S. Route 17 | None | *12 |
| | | | Just upstream of U.S. Route 17 | None | *17 |
| | | | About 1,400 feet upstream of U.S. Route 17 | None | *18 |
| | | Intracoastal Waterway | About 500 feet northwest of the intersection of 48th Avenue South and U.S. Route 17. | None | *11 |
| | | | At intersection of U.S. Route 17 and Sea Mountain Highway. | None | *12 |
| Maps available for inspection at the City Hall, 1015 Second Avenue, South, North Myrtle Beach, South Carolina. Send comments to The Honorable A. William Moss, City Manager, Town of North Myrtle Beach, City Hall, 1015 Second Avenue, South, North Myrtle Beach, South Carolina 29558. | | | | | |
| South Carolina | Town of Surfside Beach, Horry County. | Atlantic Ocean | At intersection of Seventh Avenue North and Myrtle Drive. | *15 | *15 |
| | | | Along shoreline | *22 | *23 |
| Maps available for inspection at the Town Hall, 115 U.S. Highway 17, Surfside Beach, South Carolina. Send comments to The Honorable Pat Digiovanni, Administrator, Town of Surfside Beach, Town Hall, 115 U.S. Highway 17, Surfside Beach, South Carolina 29577. | | | | | |
| South Dakota | City of Aberdeen, Brown County. | Foot Creek | At the confluence with Moccasin Creek | None | *1293 |
| | | | Approximately 200 feet upstream of the Chicago and Northwestern Railroad. | None | *1297 |
| | | | Approximately 375 feet upstream of Melgaard Road. | *1302 | *1302 |
| | | | Approximately 240 feet downstream of the eastbound lane of U.S. Highway 12. | None | *1306 |
| | | Moccasin Creek | Approximately 8,200 feet downstream of the confluence with Foot Creek. | None | *1292 |
| | | | At the confluence with Foot Creek | None | *1293 |
| | | | Approximately 200 feet downstream of Melgaard Road. | *1294 | *1294 |
| | | | At the confluence with Moccasin Creek Tributary. | *1297 | *1297 |
| | | | Approximately 100 feet downstream of Brown County Highway 13. | None | *1299 |
| | | | Approximately 5,650 feet upstream of Brown County Highway 13, just downstream of an unnamed county road. | None | *1300 |
| | | Moccasin Creek Tributary | At the confluence with Moccasin Creek | *1297 | *1297 |
| | | | Approximately 150 feet upstream of the Chicago and Northwestern Railroad. | None | *1301 |
| | | | Approximately 1,700 feet downstream of Brown Highway 13. | None | *1301 |
| Maps are available for review at the City Engineer's Office, 104 South Lincoln, Aberdeen, South Dakota. Send comments to Mayor Tim rich, P.O. Box 1299, Aberdeen, South Dakota 57402-1299. | | | | | |
| Texas | City of Balmorhea Reeves County. | Toyah Creek | Approximately 720 feet downstream of the downstream corporate limits. | None | *3,184 |
| | | | Approximately 1,340 feet upstream of the upstream corporate limits. | None | *3,205 |
| Maps available for inspection at the City Hall, San Antonio Street, Balmorhea, Texas. Send comments to The Honorable Helen Humphries, Mayor of the City of Balmorhea, Reeves County, P.O. Box 232, Balmorhea, Texas 79718. | | | | | |
| Utah | City of Provo, Utah County. | Provo River | Approximately 1,140 feet upstream of Center Street. | *4495 | *4495 |
| | | | Approximately 3,300 feet upstream of Center Street. | *4495 | *4496 |
| | | | Approximately 140 feet downstream of interstate Highway 15. | *4526 | *4528 |
| | | | Approximately 100 feet downstream of Columbia Lane. | *4585 | *4580 |

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 100 feet upstream of the Northbound Lane of University Boulevard. | *4613 | *4610 |
| | | | Approximately 170 feet upstream of 3,700 North Street. | *4695 | *4691 |
| | | | At 4800 North Street | *4749 | *4747 |
| | | Provo River | Approximately 100 feet downstream of Carterville Road. | *4787 | *4785 |
| | | Rock Canyon Creek | Approximately 750 feet east of the intersection of 2620 North Street and Iroquois Drive. | #1 | *4960 |
| | | | Approximately 350 feet north of the intersection of 1450 East Street and 2320 North Street. | #1 | #3 |
| | | Slate Canyon Creek | Approximately 700 feet east of the intersection of 520 South Street and 1450 East Street. | #1 | *4672 |
| | | | Approximately 1,050 feet east of the intersection of 520 South Street and 1450 East Street. | #1 | *4695 |
| | | | Approximately 300 feet east of the intersection of 640 South Street and 1500 East Street. | #1 | *4720 |
| | | | Approximately 1,150 feet east of the intersection of 700 South Street and 1500 East Street. | #1 | None |
| Maps are available for review at the City of provo Department of Community Development, 351 West Center Street, Provo, Utah. Send comments to Mayor Joseph Jenkins, 351 West Center street, Provo, Utah 84601. | | | | | |
| Virginia | Big Stone Gap (town), Wise County. | Powell River | At downstream corporate limits | *1,462 | *1,464 |
| | | | At confluence with S. Fork Powell River | *1,469 | *1,470 |
| | | | At upstream corporate limits | *1,494 | *1,497 |
| | | South Fork Powell River | Approximately 300 feet downstream of U.S. Route 58-A. | *1,469 | *1,470 |
| | | | At upstream corporate limits | None | *1,512 |
| Maps available for inspection at the Town Hall, 112 East 5th Street, Big Stone Gap, Virginia. Send comments to The Honorable Jerry Jesse, Mayor of the Town of Big Stone Gap, Wise County, Town Hall, 112 East 5th Street, Big Stone Gap, Virginia 24219 | | | | | |

**Effective elevations referenced to Hartford Metropolitian District Commission Datum MDC=2.08' + NGVD.

**Harold T. Duryee,**

*Administrator, Federal Insurance Administration.*

Issued: Feburary 8, 1988.

[FR Doc. 88-3125 Filed 2-16-88: 8:45 am]

BILLING CODE 6718-03-M

# Notices

Federal Register
Vol. 53, No. 31
Wednesday, February 17, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### National Commission on Dairy Policy; Advisory Committee Meeting

Pursuant to provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), a notice is hereby given of the following committee meeting.

*Name:* National Commission on Dairy Policy
*Date and Time:* March 7, 8 and 9, 1988, 8:00 A.M.
*Place:* The Sheraton National Hotel, Columbia Pike and Washington Blvd., Arlington, Virginia
*Status:* Open.

**MATTERS TO BE CONSIDERED:** On March 7, 8 and 9 the Commission will be reviewing the final report.

WRITTEN STATEMENTS MAY BE FILED BEFORE OR AFTER THE MEETING WITH: Contact person named below.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. T. Jeffery Lyon, Assistant Director, National Commission on Dairy Policy, 1401 New York Ave. NW., Suite 1100, Washington, DC 20005, (202 638-6222.

Signed at Washington, DC, this 10th day of February 1988.

**David R. Dyer,**

*Executive Director, National Commission on Dairy Policy.*

[FR Doc. 88-3281 Filed 2-16-88; 8:45 am]

BILLING CODE 3410-05-M

### Packers and Stockyards Administration

### Proposed Posting of Stockyards; Barrett Livestock Barn, GA, et al.; Correction

On December 7, 1987, a notice was published in the **Federal Register** giving notice of the proposing posting for certain stockyards listing their facility number, name, and location of stockyards.

This notice is to correct the name assigned to the following market in that publication.

The notice should have read:

MN-184
Northern Minnesota Cattle Yards
Hines, Minnesota

Done at Washington, DC, this 9th day of February, 1988.

**Harold W. Davis,**

*Director, Livestock Marketing Division.*

[FR Doc. 88-3343 Filed 2-16-88; 8:45 am]

BILLING CODE 3410-KD-M

## DEPARTMENT OF COMMERCE

### Productivity, Technology and Innovation; Report Availability

**AGENCY:** Office of the Under Secretary for Economic Affairs, Commerce.

**ACTION:** Notice of report availability.

**SUMMARY:** This Notice is published to inform interested parties of the availability of an interagency report on Federal agencies use of the International System of Units (SI) metric radiation units. The report was prepared by the Committee on Interagency Radiation Research and Policy Coordination (CIRRPC) at the request of the Office of Science and Technology Policy, Executive Office of the President.

**FOR FURTHER INFORMATION CONTACT:** The Office of Metric Programs, Room H4816, U.S. Department of Commerce, Washington, DC 20230. Phone (202) 377-3036.

**SUPPLEMENTARY INFORMATION:** The report summarizes interagency coordination consistent with Federal responsibilities under the Metric Conversion Act of 1975. Federal metric coordination responsibilities are set forth in: *Metric Conversion Policy for Federal Agencies* (15 CFR Part 19, Subpart B). This policy provides guidance for Federal use of metric units, emphasizes the importance of consistent use of metric units throughout the Federal establishment and discusses when Federal leadership in use of SI metric units is appropriate.

The Report's recommendation for U.S. policy concerning the use of SI radiation units is as follows:

Recognizing that use of the International System of Units (SI) for radiological quantities is increasing internationally but is not currently widely accepted in the United States, and recognizing that the existing U.S. policy is to plan for the increasing voluntary use of SI units domestically, it is recommended that it be U.S. policy to use dual radiation units in Federal activities. However, it is recognized that in certain operational situations, by reason of economy or safety, the utilization of dual units is undesirable. Therefore, in justified situations, agency may adopt that system of units which best meets their needs.

In the forwarding letter the CIRRPC Chairman stated, "The report recommendation * * * is a step towards the expected general use of SI special radiation units in the future."

The complete report may be ordered from the National Technical Information Service (Accession #PB-87-199386), 5285 Port Royal Road, Springfield, VA 22161, at a cost of $12.95. Comments on the CIRRPC SI Metric Radiation Units report and related aspects of metric use by Federal Agencies are welcome on a continuing basis.

Date: February 5, 1988.

**D. Bruce Merrifield,**

*A/S for Productivity, Technology & Innovation, U.S. Department of Commerce & Chairman, Interagency Committee on Metric Policy.*

[FR Doc. 88-3353 Filed 2-16-88; 8:45 am]

BILLING CODE 3510-BP-M

### National Oceanic and Atmospheric Administration

### Coastal Zone Management; Federal Consistency Appeal by Westvaco Development Corp., From an Objection by the South Carolina Coastal Council

**AGENCY:** National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Dismissal of appeal.

On October 22, 1987, the Department of Commerce (Department) received a letter from J. Reed Atkinson, on behalf of Westvaco Development Corporation (Appellant), filing a Notice of Appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, 16 U.S.C. 1456(c)(3)(A), and the Department's implementing regulations, 15 CFR Part 930, Subpart H (1987). The appeal is taken from an objection by the South Carolina Coastal Council (State) to the Appellant's consistency certification for

U.S. Army Corps of Engineers Permit Application No. SAC-26-87-548B, under section 404 of the Clean Water Act, 33 U.S.C. 1344, for placing fill material into a wetland for residential development in Berkely County, South Carolina.

By letter dated December 4, 1987, Mr. Atkinson informed the Department of Commerce that the Appellant and the State have resolved the matter and that the Appellant is accordingly withdrawing the appeal. In light of this letter, the Secretary has dismissed the appeal for good cause pursuant to 15 CFR 930.128. The Westvaco Development Corporation is barred from filing another appeal from the State's objection to the aforementioned activities.

**FOR FURTHER INFORMATION CONTACT:** Cynthia L. Mackey, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235, (202) 673-5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Date: February 10, 1988.

**Daniel W. McGovern,**

*General Counsel.*

[FR Doc. 88-3312 Filed 2-16-88; 8:45 am]

BILLING CODE 3510-08-M

## National Technical Information Service

### Intent to Grant Exclusive Patent License; Embrex Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Embrex Inc., having a place of business in Research Triangle Park, North Carolina an exclusive right in the United States and foreign countries to manufacture, use, and sell products embodied in the inventions entitled "Avian Interleukin II," U.S. Patent Applications S.N. 7-054,561 and S.N. 7-054,638. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Agriculture, and the Research Corporation.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The proposed license may be granted unless, within sixty days from the date of this published Notice NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the intended licence must be submitted to Douglas J. Campion, Associate Director, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

**Douglas J. Campion,**

*Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.*

[FR Doc. 88-3263 Filed 2-16-88; 8:45 am]

BILLING CODE 3510-04-M

### Intent To Grant Exclusive Patent License; ENSITE, INC.

The National Technical Information Services (NTIS), U.S. Department of Commerce, intends to grant to ENSITE INC., having a place of business at 5119 South Royal Atlanta Drive, Tucker, Georgia an exclusive right in the United States to use in applications for dewatering of materials outside the mining industry the process embodied in the invention entitled "Dewatering of Slimes," U.S. Patent No. 4,303,532. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Charles A. Bevelacqua, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

**Douglas J. Campion,**

*Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.*

[FR Doc. 88-3259 Filed 2-16-88; 8:45 am]

BILLING CODE 3510-04-M

### Intent To Grant Exclusive Patent License; Michigan State University

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Michigan State University, joint owner of the invention having a place of business at East Lansing, Michigan, an exclusive license in the United States and foreign countries under the rights of the United States of America to manufacture, use, and sell products embodying the invention entitled "Impact Detection Apparatus," U.S. Patent Application S.N. 6-827,142. The patent rights in this invention have been assigned jointly to the United States of America, as represented by the Secretary of Commerce and Michigan State University.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7 The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Charles A. Bevelacqua, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

**Douglas J. Campion,**

*Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.*

[FR Doc. 88-3260 Filed 2-16-88; 8:45 am]

BILLING CODE 3510-04-M

### Intent to Grant Exclusive Patent License; Research Corporation Technologies, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Research Corporation Technologies, Inc., having a place of business in Tucson, Arizona an exclusive right in the United States to manufacture, use, and sell products embodied in the invention entitled "Treatment of Ruminant Forage Material," U.S. Patent 4,627,338. The patent rights in this invention have been jointly assigned to the United States of America, as represented by the Secretary of Agriculture, and the Research Corporation.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The proposed license may be granted unless, within sixty

days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Douglas J. Campion, Associate Director, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

**Douglas J. Campion,**

*Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.*

[FR Doc. 88-3261 Filed 2-16-88; 8:45 am]

BILLING CODE 3510-04-M

## Intent To Grant Exclusive Patent License; W. R. Grace and Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to W. R. Grace & Company, having a place of business at Columbia, Maryland, an exclusive right in the United States to manufacture, use, and sell products for microbial control of soilborne plant pathogens embodied in the inventions entitled "Preparation of Pellets Containing Fungi for Control of Soilborne Disease," U.S. Patent Application 713,733 and "Preparation of Pellets Containing Fungi and Nutrient for Control of Soilborne Plant Pathogens," Patent 4,668,512, and divisions and continuations thereof. The patent rights in these inventions have been assigned to the United States of America, as represented by the Secretary of Agriculture.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Douglas J. Campion, Associate Director, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

**Douglas J. Campion,**

*Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.*

[FR Doc. 88-3262 Filed 2-16-88; 8:45 am]

BILLING CODE 3510-04-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

February 11, 1988.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on February 11, 1988. For further information contact Kimbang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posated on the bulletin boards of each Customs port or call (202) 343-6580. For information on embargoes and quota re-openings, please call (202) 377-3715.

**Summary**

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the current limit for cotton textile products in Category 348, produced or manufactured in Sri Lanka.

**Background**

On May 15, 1987, a notice was published in the **Federal Register** (52 FR 18413) which announced import restraint limits for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on June 1, 1987 and extends through May 31, 1988. Subsequent directives published on January 4, 1988 amended these limits for two separate periods which began on June 1, 1987 and extended through December 31, 1987 and on January 1, 1988 and extends through May 31, 1988.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, as amended, between the Governments of the United States and Sri Lanka, and at the request of the Government of Sri Lanka, the limit for Category 348 is being adjusted by application of swing for the period January 1, 1988 through May 31, 1988. The limit for Category 647 for the period June 1, 1987 through December 31, 1987 is being reduced to account for the swing applied to Category 348.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, dated December 11, 1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**Philip J. Martello,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

February 11, 1988.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives issued to you on December 30, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the periods which began, in the case of Category 647, on June 1, 1987 and extended through December 31, 1987; and, in the case of Category 348, on January 1, 1988 and extends through May 31, 1988.

Effective on February 11, 1988, the directives of December 30, 1987 are hereby amended to adjust limits for cotton and man-made fiber textile products in the following categories, as provided under the terms of the bilateral agreement of May 10, 1983, as amended: [1]

| Category | Adjusted limit [1] |
|---|---|
| 348 | 139,662 dozen |
| 647 | 214,120 dozen |

[1] The limits have not been adjusted to account for any imports exported after May 31, 1987 for Category 647 and December 31, 1987 for Category 348.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

[1] The bilateral agreement provides, in part, that: (1) Specific limits and sublimits may be exceeded by certain designated percentages of the square yard equivalent total, provided the amount of the increase is compensated for by a decrease in equivalent square yards in one or more other specific limits; (2) specific limits may be increased for carryover or carryforward; (3) administrative adjustments or arrangements may be made to resolve minor problems arising in the implementation of the agreement.

Sincerely,
Philip J. Martello,
*Acting Chairman, Committee for the Implementation of Textile Agreements.*
[FR Doc. 88-3320 Filed 2-16-88; 8:45 am]
BILLING CODE 3510-DR-M

## Announcement of Request for Bilateral Textile Consultations with the Government in Thailand to Review Trade in Categories 845/846

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

### Background

The purpose of this notice is to announce that on January 29, 1988, the Government of the United States requested consultations with the Government of Thailand with respect to Categories 845/846 (sweaters of silk blend and vegetable fibers other than cotton). This request was made under the Bilateral Silk Apparel and Bilateral Vegetable Fiber Apparel Agreements of December 2 and December 3, 1985 between the Governments of the United States and Thailand which provide for consultations when the orderly development of trade between the two countries may be impeded by market disruption, or the threat thereof, due to imports.

According to the terms of the bilateral agreements, the United States reserves the right to establish a limit at a level of 62,883 dozen for the ninety-day consultation period which began on January 29, 1988 and extends through April 27, 1988.

A market statement for Categories 845/846 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 845/846 under the agreement with Thailand, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Mr. James H. Babb, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

**Philip J. Martello,**
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

### MARKET STATEMENT—Thailand

*Category 845/846—Vegetable Fiber, Other—than Cotton, and Silk-Blend Sweaters*

January 1988

#### Summary and Conclusions

During the twelve months ending November 1987, imports of Category 845/846 from Thailand have risen sharply month by month. Thailand's imports reached 234,917 dozen for the year ending November 1987 and accounted for two percent of total Category 845/846 imports. U.S. imports of Category 845/846 from Thailand were 167,776 dozen during the four month period of August-November 1987, nearly seven times the 24,677 dozen imported during the same period of 1986. Thailand's imports accounted for five percent of Category 845/846 imports during August-November 1987.[1]

Imports of sweaters of vegetable fibers other than cotton and silk-blend sweaters have increased dramatically in the last two years. Most vegetable fiber other than cotton sweater imports are ramie/cotton blends although ramie/rayon, ramie/acrylic, ramie/cotton/rayon, ramie/acrylic/cotton and linen/cotton blends are being imported. Most silk-blend sweater imports are silk/acrylic and silk/rayon blends. Most of the Category 845/846 imports from Thailand are ramie/cotton sweaters.

Imports of vegetable fibers other than cotton and silk-blend sweaters compete with domestically produced cotton and man-made fiber sweaters. The U.S. market for cotton and man-made fiber sweaters, Category 345/645/646, has been disrupted by imports. The sharp and substantial increase of Category 845/846 imports from Thailand is posing a threat of magnifying the disruption.

#### Import Penetration and Market Share

The ratio of imports to production in Category 345/645/646, cotton and man-made fiber sweaters, increased to 151 percent in 1986. The share of this market held by domestic manufacturers dropped to 40 percent in 1986. Annualized U.S. production data for the first six months of 1987 indicates that 1987 production of cotton and man-made fiber sweaters will be virtually unchanged, remaining at the 1986 level.

Share estimates for 1987, based on annualized January-June 1987 U.S. production data and January-November 1987 U.S. imports data, indicate an import to production ratio of 156 percent and a U.S. market share of 39 percent. When annualized January-November 1987 imports of the directly competitive Category 845/846 imports are included, the import to production ratio jumps to 266 percent and the domestic manufacturers' share of the market falls to 27 percent.

U.S. imports of Category 845/846 for the year ending November 1987 reached 10,828 thousand dozen representing 43 percent of total cotton, man-made fiber, vegetable fiber, other than cotton, and silk-blend sweaters.

#### Duty-Paid Value and U.S. Producer Price

Approximately 86 percent of Category 845/846 imports from Thailand during the first ten months of 1987 entered under TSUSA number 384.5317—women's, girls' and infants' knit sweaters, of vegetable fiber other than cotton, excluding those sweaters assembled in Hong Kong from knit-to-shape component parts knitted elsewhere, not ornamented. These sweaters entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable sweaters.

[FR Doc. 88-3479 Filed 2-12-88; 4:51 pm]
BILLING CODE 3510-DR-M

[1] Prior to August 1, 1986, there were no Tariff provisions that broke out apparel containing 70 percent or more by weight silk. Therefore, directly comparable Category 845/846 import data current exists for the four month period August-November 1986 and August-November 1987.

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF Scientific Advisory Board; Meeting

February 9, 1988.

The meeting of the USAF Scientific Advisory Board Foreign Technology Division Advisory Group, previously announced for February 25, and 26, 1988,

has been postponed. The Advisory Group will meet March 28 and 29, 1988, from 8:00 A.M. to 4:00 P.M. each day at Headquarters, Foreign Technology Division (FTD), Building 856, Wright Patterson Air Force Base, Ohio.

The purpose of this meeting is to receive briefings on and to advise the Commander, FTD, on selected topics involving directed energy weapons.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 88-3280 Filed 2-16-88; 8:45 am]

BILLING CODE 3910-01-M

## USAF Scientific Advisory Board; Meeting

February 9, 1988.

The meeting of the USAF Scientific Advisory Board Ad Hoc Committee on Future Undergraduate Pilot Training previously announced for February 23-24, 1988, has been postponed. The Committee will meet March 31-1 April 1988, at Air Training Command Headquarters, Randolph Air Force Base, Texas.

The purpose of this meeting is to indoctrinate the committee on current and planned pilot training programs and methodology, pilot production rates, and pilot qualification requirements for future weapon systems.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 88-3282 Filed 2-16-88; 8:45 am]

BILLING CODE 3910-01-M

## Department of the Army

## Army Science Board; Open Meeting

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

*Name of the Committee:* Army Science Board (ASB).

*Dates of Meeting:* 9 and 10 March 1988.

*Time:* 0830-1600 hours each day.

*Place:* Fort Monmouth, New Jersey.

*Agenda:* The Army Science Board Ad Hoc Subgroup on Electronic Technology and Devices Laboratory will meet for the purpose of gathering data to conduct an effectiveness review of ETDL. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202)695-3039/7046.

**Sally A. Warner,**

*Administrative Officer, Army Science Board.*

[FR Doc. 88-3237 Filed 2-16-88; 8:45 am]

BILLING CODE 3710-08-M

## Army Science Board; Open Meeting

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

*Name of the Committee:* Army Science Board (ASB).

*Dates of Meeting:* 8 and 9 March 1988.

*Time:* 0800-1700 hours each day.

*Place:* Fort Knox, Kentucky.

*Agenda:* The Army Science Board Ad Hoc Subgroup on Close Combat Training Strategy for the 1990's will meet for the purpose of having their kick-off meeting, review the Terms of Reference, and to set up guidelines for conducting the study. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202)695-3039/7046.

**Sally A. Warner,**

*Administrative Officer, Army Science Board.*

[FR Doc. 88-3238 Filed 2-16-88; 8:45 am]

BILLING CODE 3710-08-M

## Department of the Navy

## Navy Affirmative Salvage Claims

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice.

**SUMMARY:** The Department of the Navy is authorized by 10 U.S.C. 7361-7367 to render salvage services to civilian and foreign vessels and to be compensated for such services. The rates of compensation were published in 32 CFR Part 754 and amended at 47 FR 6011, Feb. 10, 1982. 32 CFR Part 754 was removed by 51 FR 19830, June 3, 1986, because the underlying Navy instruction was cancelled. That instruction has been replaced by Naval Sea Systems Command Instruction (NAVSEAINST) 4740-8. The rates previously published remain in effect and are re-published below.

**EFFECTIVE DATE:** June 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** David P. Howe, Assistant Supervisor of Salvage (Admiralty), Naval Sea Systems Command (Code OOCL), Washington, DC 20362-5100. Telephone number: (202) 697-7412.

**SUPPLEMENTARY INFORMATION:** The Navy does not maintain salvage facilities beyond its own requirements. It is authorized by 10 U.S.C. 7361-7367 to provide salvage facilities for private vessels in appropriate circumstances. This authority does not obligate the United States or the Department of the Navy to maintain excess salvage facilities, nor to render salvage assistance.

However, it is the policy of the Department of the Navy to assist in the salvage of privately owned vessels when such assistance is required and requested, where adequate privately owned salvage facilities do not exist or are not readily available, and where Navy salvage assets are reasonably available.

Charges for Navy salvage services are independent of the values involved and of the success of the operation. The user will be billed the full amount, regardless of whether the vessel is salved or lost, and irrespective of the ultimate success or failure of the salvage operation.

They Navy adopts the per diem rates below as a matter of policy, and does not waive nor surrender the right to submit a salvage bonus claim. Per diem billing is made on the express condition that the bills be paid promptly and in full. Until receipt of payment the Navy reserves all rights, including the right to withdraw the per diem billing without notice and to present a claim on a salvage bonus basis.

The following rates apply for each day of 24 hours or part thereof, for salvage services rendered by the Navy:

| | |
|---|---|
| (1) *Ships and craft:* | |
| Salvage ship (ATS) | $25,000 |
| Salvage ship (ARS) | 23,000 |
| Fleet tug (ATF) | 21,000 |

| | |
|---|---|
| Fleet tug (T-ATF 166): | |
| With salvage equipment/crew | 20,000 |
| Without salvage equipment/crew | 18,000 |
| Rescue ship (ASR): | |
| With saturation diving system | 24,000 |
| Without saturation diving system | 22,000 |
| Large tug (YTB) | 5,000 |
| Medium tug (YTM) | 4,000 |
| Small tug (YTL) | 3,000 |
| Floating crane (YD) (200 ton) | 7,500 |
| Diving tender) | 3,000 |

Rates for other types of vessels will be established on a case-by-case basis. Per diem charges normally begin when the assisting vessel leaves her berth or is diverted from her voyage, and end when she returns to her berth or resumes her voyage upon the completion of the salvage operation.

(2) *Salvage and oil spill response equipment:* Per diem charge for portable salvage equipment, oil and hazardous substance spill response equipment, or special equipment, are based on equivalent commercial rates. If commercial rates are not available, charges will be established on a case-by-case basis.

(3) In addition the above rates, charges may include out-of-pocket costs for a salvage operation, including but not limited to:

a. Consumable materials, including lube oil and fuel consumed and water procured for the operation;

b. Equipment lost, destroyed, damaged or expended;

c. Repairs to ships and equipment directly attributable to the operation;

d. Navy Industrial Fund charges;

e. Travel and per diem costs;

f. Civil Service employee overtime;

g. Transportation of Things (TOT);

h. Rental of commercial equipment; and

i. Other specific procurements and direct charges, including contractor charges and additional personnel.

Fuel, lube oil, water, and other consumables expended by Navy vessels in the ordinary course of an operation are included in the per diem charges for those vessels. Hoever, extraordinary expenditures of such consumables will be charged.

Dated: February 9, 1988.

**W.R. Babington, Jr.,**

*Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 88-3115 Filed 2-16-88; 8:45 am]

BILLING CODE 3810-AE-M

## DEPARTMENT OF EDUCATION

### Notice Inviting Applications for New Awards Under the Technology, Educational Media, and Materials Programs for Fiscal Year 1988 (CFDA No: 84.180)

*Purpose*: To promote the educational advancement of handicapped persons through the use of educational media, materials, and technology.

*Deadline for Transmittal of Applications*: April 1, 1988.

*Applications Available*: February 19, 1988.

*Estimated Range of Awards*: $125,000 - $175,000.

*Estimated Average Size of Awards*: $150,000.

*Estimated Number of Awards*: 6.

*Project Period*: up to 18 months.

*Priority*: In accordance with 34 CFR 333.3(c), the Secretary invites applications for projects that design and develop new technology, educational media, and materials. The Secretary particularly invites applications for projects that support the innovative adaptation and use of hardware and software technology. These adaptations could be either teacher- or learner-oriented applications. The Secretary encourages technology adaptations that would compensate for physical, sensory, or cognitive learning impediments in order to: (a) Alleviate the need for either the teacher or learner to modify instructional materials, and/or (b) increase the overall accessibility to educational opportunities for learners with handicaps. The Secretary encourages projects that would capitalize on advances in such areas as peripherals, memory, display, networking, and reproduction. The Secretary encourages projects that develop prototypes which utilize existing technology for advancing the teaching or learning of children with handicaps. The Secretary encourages projects in which the development phase includes an evaluation which establishes that the applications work, are feasible to operate and maintain in a school setting, and have a positive effect. In addition, the Secretary encourages projects that would include a plan for national marketing and distribution including a rationale supporting the modifications that would be submitted as a final report.

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(1), an application submitted under this notice that meets this invitational priority will not be given a competitive or absolute preference over other applications. All applications submitted under this priority will be evaluated using the selection criteria at proposed 34 CFR 333.22 for development or demonstration activities.

*Applicable Regulations*: (a) When adopted in final form, the Notice of Proposed Rulemaking for the Technology, Educational Media, and Materials for the Handicapped Program published on December 9, 1987 in the **Federal Register** (52 FR 46720); and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78. Applicants should base their applications on the proposed regulations. If substantive changes are made in the final regulations applicants will be given an opportunity to revise or resubmit their applications.

*For Applications or Information Contact*: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3094-M/S 2313), Washington, DC 20202. Telephone: (202) 732-1099.

**Program authority**: 20 U.S.C. 1461.

**Madeleine Will,**

*Assistant Secretary, Office of Special Education and Rehabilitative Services.*

[FR Doc. 88-3243, Filed 2-16-88; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

### Proposed Remedial Order to King Petroleum, Inc., Richard C. King, Dewveall Petroleum, Inc. and Willard C. Dewveall

**AGENCY:** Economic Regulator Administration, DOE.

**ACTION:** Notice of Proposed Remedial Order to King Petroleum, Inc., Richard C. King, Dewveall Petroleum, Inc. and Willard C. Dewveall.

**SUMMARY:** Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the United States Department of Energy hereby gives notice of a Proposed Remedial Order which was issued on December 18, 1987, to King Petroleum, Inc., Richard C. King, Dewveall Petroleum, Inc., and Willard C. Dewveall. This Proposed Remedial Order alleges price overcharges in the amount of $12.76 million, plus interest, in the resale of millions of barrels of crude oil in violation of 10 CFR 212.186, 212.131, 210.62(c), and 205.202 during the period August 1, 1980, through January 31, 1981. Although the transactions at issue took place in the Oklahoma-

Texas-Louisiana area, the effect of the alleged violations is nationwide.

A copy of the Proposed Remedial Order may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room 6F–078, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon: Sandra K. Webb, Director, Economic Regulatory Administration, U.S. Department of Energy, One Allen Center, 500 Dallas Street, Houston, Texas 77002.

and upon: Diana D. Clark, Administrative Litigation Division, Economic Regulatory Administration, U.S. Department of Energy, Room 3H–055, RG–43, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, DC on February 5, 1988.

**Milton C. Lorenz,**

*Chief Counsel for Enforcement Litigation, Economic Regulatory Administration.*

[FR Doc. 88–3286 Filed 2–16–88; 8:45 am]

BILLING CODE 6450–01–M

## Energy Information Administration

### Agency Collections Under Review by the Office of Management and Budget

**AGENCY:** Energy Information Administration, DOE.

**ACTION:** Notice of requests submitted for clearance to the Office of Management and Budget.

**SUMMARY:** The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in new or revised regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) Annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and (12) A brief abstract describing the proposed collection and the respondents.

**DATES:** Comments must be filed on or before March 18, 1988.

**ADDRESS:** Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards, at the address below.)

**FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT:** Carole Patton, Office of Statistical Standards (EI–70), Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–2222.

**SUPPLEMENTARY INFORMATION:** If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, you should advise the OMB DOE Desk Officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084.

The energy information collection submitted to OMB for review was:

1. Energy Information Administration
2. EIA–1, 3, 4, 5, 6, 7A, 7A(Supp), and 20
3. 1905–0167
4. Coal Program Package
5. Revision—This request is for a one-year extension to the above-mentioned coal data collections, along with these changes:

a. Form EIA–97, Boiler Order Report (an annual report) will be discontinued in March 1988.

b. Form EIA–7A(Supp), Coal Production Report (Supplemental) will be changed from an active to standby basis.

The Coal Division of the Energy Information Administration is continuing its review of the coal data collection forms, including meetings with representatives of the coal industry (Coal Industry Working Group) and other individuals. Another clearance package, based on results of the review, will be submitted to OMB in late 1988.

6. Weekly, Quarterly, and Annually
7. Mandatory
8. Businesses or other for profit
9. 12,158 respondents
10. 16,360 responses
11. 24,110 hours
12. The coal surveys collect data on coal production, consumption, stocks, prices, imports and exports. Data are published in various EIA publications. Respondents are manufacturing plants, producers of coke, purchasers and distributors of coal, coal mining operators, and coal-consuming electric utilities.

**Statutory Authority:** Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Energy Administration Act of 1974 (15 U.S.C. 764(a), 764(b), 772(b), and 790(a)).

Issued in Washington, DC, February 10, 1988.

**Yvonne M. Bishop,**

*Director, Statistical Standards, Energy Information Administration.*

[FR Doc. 88–3285 Filed 2–16–88; 8:45 am]

BILLING CODE 6450–01–M

## Federal Energy Regulatory Commission

**[Docket Nos. ER88–229–000, et al.]**

### Commonwealth Edison Co., et al.; Electric Rate and Corporate Regulation Filings

February 10, 1988.

Take notice that the following filings have been made with the Commission:

**1. Commonwealth Edison Company**

[Docket No. ER88–229–000]

Take notice that on February 3, 1988, Commonwealth Edison Company (Edison) tendered for filing a Letter Agreement dated August 10, 1987 between Edison and Wisconsin Public Power, Inc. System (WPPI).

The Letter Agreement provides for Edison to make various amounts of Firm Power available to WPPI during the period June 1, 1989 through May 31, 1992. Edison requests an effective date of June 1, 1989 to coincide with the initiation of service and therefore requests waiver of

the Commission's notice requirements to allow the filing to be posted more than 120 days prior to the initial date of service.

Copies of this filing were served upon WPPI, the Illinois Commerce Commission and the Public Service Commission of Wisconsin.

*Comment date:* February 25, 1988, in accordance with Standard Paragraph E at the end of the notice.

**2. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)**

[Docket No. ER88-138-000]

Take notice that on February 4, 1988, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) jointly tendered for filing revised Exhibit IX, to the Agreement to Coordinate Planning and Operations and Interchange Power and Energy Between Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin).

Exhibit IX sets forth a revised specification of depreciation rates certified by the Minnesota Public Utilities Commission. Subsequent to the Company's filing on December 15, 1987, it was brought to NSP's attention that the filed rates were not correct for 1988.

The NSP Companies request an effective date of January 1, 1988, for this filing. Copies of the filing letter and revised Exhibit XI have been served upon the wholesale and wheeling customers of the Companies. Copies of the filing have been mailed to the state Commissions of Michigan, Minnesota, North Dakota, and South Dakota and Wisconsin.

*Comment date:* February 25, 1988, in accordance with Standard Paragraph E at the end of this notice.

**3. Pacific Gas and Electric Company**

[Docket No. ER88-230-000]

Take notice that on February 4, 1988, Pacific Gas and Electric Company (PG&E) tendered for filing changes to FERC Rate Schedule No. 84. This Rate Schedule covers services that are rendered by PG&E under the agreement entitled the "Interconnection Agreement Between Pacific Gas and Electric Company and the Northern California Power Agency, City of Alameda, City of Biggs, City of Gridley, City of Healdsburg, City of Lodi, City of Lompoc, City of Palo Alto, City of Roseville, City of Ukiah and Plumas Sierra Rural Electric Cooperative" (Interconnection Agreement). This filing tenders a revised Exhibit A-1 to the Interconnection Agreement. The revision does not change the level of any rate.

The current Exhibit A-1 lists the Partial Requirements Power and Capacity Reserve amounts that the Northern California Power Agency (NCPA) is obligated to purchase from PG&E during 1987. The revised Exhibit A-1 establishes: (a) The Partial Requirements Power Contract Demand obligation and the associated transmission obligation at 0 MW for 1988 and b) establishes the Capacity Reserve sales from PG&E to NCPA at 0 MW/month for 1988.

PG&E requests, pursuant to the Commission's Regulations (18 CFR 35.11), waiver of the Commission's usual notice requirement so as to permit the revised Exhibit to become effective on January 1, 1988. No customers under any other rate schedules will be affected if such waivers are granted.

*Comment date:* February 25, 1988, in accordance with Standard Paragraph E at the end of this notice.

**4. Pennsylvania Power Company**

[Docket No. ER88-227-000]

Take notice that on February 2, 1988, Pennsylvania Power Company (Penn Power) tendered for filing pursuant to 18 CFR 35.13(a)(2)(ii) proposed changes in its FPC Electric Service Tariffs Nos. 30, 31, 32, 33 and 34 to the Pennsylvania boroughs of New Wilmington, Wampum, Zelienople, Ellwood City and Grove City, respectively. The proposed changes would increase revenues from jurisdiction sales and service by $208,686.59 or approximately 4.87% based on the 12-month period ending November 30, 1988. The increase is composed of increases in the Energy Cost Rate (ECR) and the states tax adjustment surcharge effective December 17, 1987 and January 1, 1988, respectively. The effect of the change in the ECR results in an annual increase in future test year revenues of $198,024.11 or 4.62% effective December 17, 1987. The January 1, 1988 increase in the state tax adjustment surcharge results in an annual increase in future test year revenues of $10,662.48 or 0.25%. The Company also proposes to extend the availability of the Economic Development Rider (Rider III) to December 31, 1988. This change has no effect on revenues. The five municipal resale customers served by Penn Power entered into settlement agreements effective as of September 1, 1984. These agreements provide that these customers will be charged applicable retail rates as may be in effect during the terms of the agreements. Changes in rates were agreed to become effective as to these resale customers simultaneously with changes approved by the Pennsylvania Public Utility Commission. These settlement agreements were approved by the Federal Energy Regulatory Commission through a Secretarial letter dated December 14, 1984 in Docket Nos. ER77-277-000 and ER81-779-000. Waivers of certain filing requirements have been requested to implement the rate changes in accordance with the settlement agreements.

Copies of the filing were served upon Penn Power's jurisdictional customers and the Pennsylvania Public Utility Commission.

*Comment date:* February 24, 1988, in accordance with Standard Paragraph E at the end of this notice.

**5. UtiliCorp United Inc.**

[Docket No. ER88-27-000]

Take notice that on January 27, 1988, UtiliCorp United Inc. ("Applicant") filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to issue, from time to time, up to and including $300,000,000 of unsecured notes and other evidences of indebtedness. All notes would have final maturities of not later than February 28, 1991, or not more than one year after the date of Commission authorized issuance, whichever is later. The proceeds of such proposed issuances would be exclusively used to provide financing for future acquisitions of utility property.

*Comment date:* February 26, 1988, in accordance with Standard Paragraph E at the end of this notice.

**6. Carolina Power & Light Company**

[Docket No. ER88-224-000]

Take notice that on February 1, 1988, Carolina Power & Light Company (CP&L) tendered for filing revised rates for its resale customers that would produce a rate increase. CP&L has also tendered for filing Revised Sheet Nos. 5-8B to its FPC Electric Tariff, First Revised Volume No. 1, containing revised rates and charges applicable to CP&L's 3 municipal, 18 rural electric cooperatives, and 1 partial requirements sales-for-resale customers. The revised rates for the increase are contained in proposed Resale Service Schedules RS88-1, RS88-2, and RS88-3 and accompanying Resale Fuel Adjustment Clause Rider No. 88A applicable to CP&L's electric cooperative customers, municipal customers, and partial requirements customers, respectively. CP&L proposes to place the revised tariff sheets into effect as of April 2, 1988. The revised rates and charges

would increase revenues from jurisdictional sales by $33,864,768 if the rates were in effect for all of the 12-month period ending December 31, 1988.

CP&L states that, under the rates currently in effect, it expects to realize a rate of return on equity during Period II (calendar year 1988) from service to its electric cooperative resale customers of 7.4 percent, from its municipal resale customers of 7.6 percent, and from the partial requirements customer of 7.2 percent. These rates of return on common equity are lower than the Company's cost rate for both long-term debt and preferred stock and are clearly inadequate to compensate the common stockholders.

Copies of the appropriate portions of the filing have been served upon CP&L's jurisdictional resale customers and the State Commissions of North Carolina and South Carolina.

*Comment date:* February 29, 1988, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-3336 Filed 2-16-88; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. CP88-230-000, et al.]**

## Ringwood Gathering Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

### 1. Ringwood Gathering Company

[Docket No. CP88-230-000]

February 9, 1988.

Take notice that on February 8, 1988, Ringwood Gathering Company (Ringwood) 3828 Loop Central Drive, Suite 850, Houston, Texas 77081, filed in Docket No. CP88-230-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Ringwood Marketing Company (Marketing) under the authorization issued in Docket No. CP86-618-000 pursuant to section 7 of the natual Gas Act, all as more fully set forth in the request which is on filed with the Commission and open to public inspection.

Ringwood would perform the proposed transportation service for Marketing pursuant to a gas transportation service agreement dated November 1, 1987. The term of the transportation service is from the date of first delivery of gas through November 1, 1989, and thereafter on a month to month basis until terminated by either party upon thirty days written notice. Ringwood proposes to transport on a peak day 25,000 million Btu equivalent; on an average day 15,000 million Btu equivalent; and on an annual basis 500,475,000 million Btu equivalent of natural gas for Marketing. Ringwood proposes to receive the gas at various wells connected to its facilities in Major County, Oklahoma. Ringwood would transport such volumes for Marketing for delivery to the interconnection of its facilities and the following four delivery points; Williams Natural Gas Company facilities in Garfield County, Oklahoma; Oklahoma Natural Gas Company facilities in Major County, Oklahoma; Panhandle Eastern Pipeline facilities in Major County, Oklahoma; and Arkla Pipeline facilities in Garfield County, Oklahoma.

Ringwood states that Marketing is obligated to pay monthly for the proposed service, a rate of $.372 per Mcf at the points of delivery, as set forth in the November 1, 1987, gas transportation service agreement. The November 1, 1987, transportation agreement indicates that Rate Schedule ITS-1 is an integral part of the agreement and that it is contained in the tariff provision section of the agreement. Ringwood states that no new facilities would be constructed in order to provide the proposed transportation service. It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a) (1) of the Regulations. However, Ringwood notes that the 120-day self implemented service is scheduled to terminate prior to any authorization which may result from the subject application.

**COMMENT DATE:** March 25, 1988, in accordance with Standard Paragraph G at the end of this notice.

### 2. El Paso Natural Gas Company

[Docket No. CP88-162-000]

February 9, 1988.

Take notice that on January 13, 1988, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP88-162-000[1], a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon certain miscellaneous minor gas sales facilities and services, under the authorization issued in Docket No. CP82-435-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso proposes to abandon four miscellaneous minor gas sales facilities with associated appurtenances and the related natural gas services listed in the appendix herein. Additionally, El Paso proposes to abandon natural gas sales services to the City of Safford, Arizona (Safford) at the Safford Power Plant, since these facilities are owned and operated by Safford and would continue to be utilized for gas service to Safford (see Appendix). El Paso states that it periodically reviews, among other things, the operating status of such facilities situated on its pipeline system and with the customer's advisement indicates those facilities eligible for abandonment.

El Paso states it would remove and place in stock the salvable materials and scrap the non-salvable items of the facilities to be abandoned, without material change in its average cost-of-service. The proposed abandonments would not result in or cause any interruption, reduction or termination of natural gas service presently rendered by El Paso to any of its customers, it is indicated. El Paso states it has examined the abandonment action proposed and finds that the adverse environmental effects of each action, if any, would be minor and of a temporary nature and that El Paso's applicable reclamation procedures would be followed where appropriate.

**COMMENT DATE:** March 25, 1988, in accordance with Standard Paragraph G at the end of this notice.

[1] This application was erroneously noticed as a section 7(b) abandonment February 4, 1988, with a due date of February 25, 1988.

## Appendix—El Paso Natural Gas Company

INDEX: CERTAIN EXISTING MISCELLANEOUS MINOR GAS SALES FACILITIES FOR WHICH EL PASO SEEKS ABANDONMENT AUTHORIZATION

| Name | Facilities Proposed to be Abandoned | Location | Pipeline | Certificate Authorization | Distributor |
|---|---|---|---|---|---|
| 1. Adams J.S. Tap | Dual 1" O.D. Taps | Section 33, Township 12 South, Range 12 East, Pima County, Arizona. | 10¾"O.D. Line from El Paso-Douglas Line to Guadalupe Regulator Station and 10¾" O.D. Loop Line from El Paso-Douglas Line to Guadalupe Regulator Station. | G-288 | Southwest Gas Corporation. |
| 2. Flaccus, Bliss Tap | Dual 1" O.D. Taps | Section 16, Township 16 South, Range, 16 East, Pima County, Arizona. | 10¾" O.D. Line from El Paso-Douglas Line to Guadalupe Regulator Station and 10-¾" O.D. Loop Line from El Paso-Douglas Line to Guadalupe Regulator Station. | G-288 | Southwest Gas Corporation. |
| 3. Mr. Baldwin Tap | Single 1" O.D. Tap | Section 449, Block G, C.C.S.D. & R.G.N.G. Survey, Gaines County, Texas. | 24" Line from Dumas Plant to Eunice Plant. | CP69-23 | Westar Transmission Company. |
| 4. Merritt, Will Tap | Dual 1" O.D. Taps | Section 6, Township 2 South, Block 119, Public School Land Survey, Hudspeth County, Texas. | 16" O.D. Line from Jal Plant to El Paso City Gate No. 1 and 16" O.D. Loop Line from Jal Plant to Clint Junction. | 2.55(c) | Southern Union Gas Company. |
| 5. Safford Power Plant | Facilities Owned by City of Safford [1]. | Section 20, Township 7 South, Range 26 East, Graham County, Arizona. | 6⅝" O.D. Line from Maricopa County Line to Prescott, Arizona. | G-288 | City of Safford, Arizona |

[1] The facilities are owned and operated by the City of Safford and continue to be utilized for gas service to the City. El Paso requests abandonment of the service to the Safford Power Plant only, which was previously served through such facilities.

### 3. PennEast Gas Services Company

[Docket No. CP88-181-000]

February 8, 1988.

Take notice that on January 15, 1988, PennEast Gas Services Company (PennEast), Post Office Box 2521, Houston, Texas 77252, filed in Docket No. CP88-181-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to render a firm natural gas sales service in interstate commerce to designated local distribution companies (Buyers); to render firm transportation services in interstate commerce for the Buyers; and to construct and operate facilities necessary therefor, and for a Blanket Certificate pursuant to 18 CFR 284.221 authorizing open-access, non-discriminatory transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to render a firm sale for resale service commencing on November 1, 1989 to fifteen local distribution companies indicated below pursuant to a proposed Rate Schedule CDS attached as Exhibit P(5) to the application. Applicant states that this service would be based upon the purchase by Applicant of natural gas from Texas Eastern Transmission Corporation (Texas Eastern). Applicant further states that the Buyers have executed precedent agreements which are attached as Exhibit I to the application. Applicant proposes to sell to the Buyers up to the quantities (dt equivalent) indicated below:

| Buyer | Daily contract quantity (dt/D) | Annual contract quantity (dt) | Maximum daily standby quantity (dt/D) | Maximum yearly standby quantity (dt) |
|---|---|---|---|---|
| Boston Gas Co | 29,050 | 10,603,250 | 14,525 | 5,301,625 |
| The Brooklyn Union Gas Co | 4,150 | 1,514,750 | 2,075 | 757,375 |
| Cairo, Illinois | 249 | 90,885 | 125 | 45,625 |
| Central Hudson Gas & Electric Corp | 4,980 | 1,817,700 | 2,490 | 908,850 |
| Chambersburg, PA | 53 | 19,345 | 26 | 9,490 |
| Connecticut Lighting & Power Co. | 3,071 | 1,120,915 | 1,535 | 560,275 |
| Connecticut Natural Gas Co | 20,749 | 7,573,385 | 10,374 | 3,786,510 |
| Fall River Gas Co | 415 | 151,475 | 207 | 75,555 |
| Huntingburg, IN | 249 | 90,885 | 125 | 45,625 |
| Long Island Lighting Co | 6,225 | 2,272,125 | 3,113 | 1,136,245 |
| Town of Middleborough, MA | 332 | 121,180 | 166 | 60,590 |
| New Jersey Natual Gas Co | 9,545 | 3,483,925 | 4,773 | 1,742,145 |
| Public Service Electric & Gas Co | 51,875 | 18,934,375 | 25,938 | 9,467,370 |
| Smyrna, TN | 208 | 75,920 | 104 | 37,960 |
| Southern Connecticut Gas Co | 16,601 | 6,059,365 | 8,300 | 3,029,500 |
| Total | 147,752 | 53,929,480 | 73,876 | 26,964,740 |

Applicant proposes, pursuant to its proposed new Rate Schedule CDS, to sell and cause to deliver natural gas to Buyer at the delivery points to be specified in an executed service agreement, which are located on the existing systems of Texas Eastern and Algonquin Gas Transmission Company (Algonquin).

It is indicated that, under the proposed Rate Schedule CDS, there is a

standby election whereby a Buyer contracting for service under Rate Schedule CDS and service under the proposed Rate Schedules PFT-1 and T-3 may elect at the time of execution of the CDS Service Agreement firm standby service on a daily basis in a contract year under Rate Schedule CDS.

It is further indicated that the executed service agreement under Rate Schedule CDS would specify a Maximum Daily Standby Quantity (MDSQ) and a Maximum Yearly Standby Quantity (MYSQ) not to exceed fifty percent of the Daily Contract Quantity and ACQ, respectively, provided, total deliveries in any contract year under Rate Schedule CDS and deliveries under Rate Schedule PFT-1 and TS-3 attributable to Buyer's MYSQ under Rate Schedule CDS would not exceed Buyer's ACQ under Rate Schedule CDS.

Applicant states that, in the event Buyer elects to receive firm standby service under Rate Schedule CDS, Buyer would be entitled to nominate and purchase quantities of natural gas from Applicant at the CDS sales commodity charge plus applicable overrun and adjustment charges provided that such purchases are within the Daily Contract Quantity and ACQ established in the executed service agreement. Also, Applicant states that Buyers under Rate Schedule CDS would have the right to convert on a permanent basis from Rate Schedule CDS to Rate Schedule PFT-1 and T-3 subject to the limitations set forth in Article 1 of the CDS service agreement. It is indicated that a party which converts on a permanent basis from firm sales to firm transportation service would not be entitled as a matter of right to return to such firm sales service.

Applicant states that, to the extent necessary, abandonment authorization is hereby requested to implement both daily and permanent conversions discussed above, as well as waiver of the Commission's filing fee regulation with respect to filings made to implement the agreements for which authorization is requested herein.

Applicant requests authorization to render interim best efforts sales to Buyers pending completion of facilities for firm service pursuant to Section 6 of Rate Schedule CDS. Applicant states that, commencing on the execution of the CDS service agreements and continuing until the construction of all necessary Applicant facilities and commencement of firm sales to Buyers, subject to all necessary regulatory and government approvals, and upon Buyers, Applicant's and Texas Eastern's request, Columbia Gas Transmission Corporation would release up to 75,000 dt per day of its contractual entitlements to purchase gas in Texas Eastern's Rate Zone C pursuant to Texas Eastern's DCQ service agreement.

Applicant further states that Texas Eastern would use its best efforts to sell such released volumes to Applicant and in return Applicant would use its best efforts to sell such volumes to Buyers. For the interim sales to Buyers, it is indicated that Applicant would charge its proposed Rate Schedule CDS interim rate.

Applicant requests authorization to render a long-term firm transportation service pursuant to a proposed Rate Schedule PFT-1 attached as Exhibit P(5) to the application. Applicant states that the Rate Schedule PFT-1 service would be based on the FTS-3 transportation service provided by Texas Eastern. It is indicated that Applicant would cause Texas Eastern to transport on a daily basis natural gas up to the following quantities:

| Buyer | Contract demand quantity (dt/D) | Annual transportation quantity (dt) | Maximum daily standby quantity (dt/D) | Maximum yearly standby quantity (dt) |
|---|---|---|---|---|
| Boston Gas Co | 14,746 | 5,382,290 | 14,746 | 5,382,290 |
| The Brooklyn Union Gas Co | 2,107 | 769,055 | 2,107 | 769,055 |
| Cairo, Illinois | 127 | 46,355 | 127 | 46,355 |
| Central Hudson Gas & Electric Corp | 2,528 | 922,720 | 2,528 | 922,720 |
| Chambersburg, PA | 27 | 9,855 | 27 | 9,855 |
| Connecticut Lighting & Power Co | 1,559 | 569,035 | 1,559 | 569,035 |
| Connecticut Natural Gas Co | 10,532 | 3,844,180 | 10,532 | 3,844,180 |
| Fall River Gas Co | 210 | 76,650 | 210 | 76,650 |
| Huntingburg, IN | 127 | 46,355 | 127 | 46,355 |
| Long Island Lighting Co | 3,160 | 1,153,400 | 3,160 | 1,153,400 |
| Town of Middleborough, MA | 168 | 61,320 | 168 | 61,320 |
| New Jersey Natural Gas Co | 4,845 | 1,768,425 | 4,845 | 1,768,425 |
| Public Service Electric & Gas Co | 26,332 | 9,611,180 | 26,332 | 9,611,180 |
| Smyrna, TN | 106 | 38,690 | 106 | 38,690 |
| Southern Connecticut Gas Co | 8,426 | 3,075,490 | 8,426 | 3,075,490 |
| Total | 75,000 | 27,375,000 | 75,000 | 27,375,000 |

Applicant states that, under Rate Schedule PFT-1, transportation service would be on a firm basis, except to the extent the underlying service from Texas Eastern is interrupted or reduced by Texas Eastern. Applicant further states that it would receive from Buyer, or for the account of Buyer, at those points on Texas Eastern's system as specified in an executed PFT-1 service agreement between Buyer and Applicant, daily quantities of gas up to Buyer's Maximum Daily Transportation Quantity (MDTQ) as specified in the service agreement plus "Company Use Gas."

Applicant explains that it would not be obligated to, but may at its option, with the mutual agreement of Texas Eastern, cause Texas Eastern to receive at any point of receipt on any day a quantity of gas in excess of the applicable Maximum Daily Receipt Obligation.

It is submitted that, upon receipt of such natural gas for Buyer's account, Texas Eastern would transport and deliver to Applicant for Buyer's account an equivalent quantity of gas at those points on Applicant's system as specified in an executed PFT-1 service agreement between Buyer and Applicant for further transportation and delivery to Buyer pursuant to Seller's Rate Schedule T-3. It is further submitted that the quantities transported under Rate Schedule PFT-1 and delivered to Buyer subsequently pursuant to Rate Schedule T-3 would be in lieu of standby service under Rate Schedule CDS.

In addition to the firm sales and transportation under Rate Schedules CDS and PFT-1, Applicant requests authorization to render long-term firm transportation under Applicants proposed Rate Schedule T-3, attached in

Exhibit P(5) to the application. Applicant requests to transport on a daily basis natural gas up to the following quantities:

| Buyer | Contract demand quantity dt/d |
|---|---|
| Boston Gas Co | 14,525 |
| The Brooklyn Union Gas Co | 2,075 |
| Cairo, Illinois | 125 |
| Central Hudson Gas & Electric Corp | 2,490 |
| Chambersburg, PA | 26 |
| Connecticut Light & Power Co | 1,535 |
| Connecticut Natural Gas Co | 10,374 |
| Fall River Gas Co | 207 |
| Huntingburg, IN | 125 |
| Long Island Lighting Co | 3,113 |
| Town of Middleborough, MA | 166 |
| New Jersey Natural Gas Co | 4,773 |
| Public Service Electric & Gas Co | 25,938 |
| Smyrna, TN | 104 |
| Southern Connecticut Gas Co | 8,300 |
| Total | 73,876 |

Applicant states that the aggregate Maximum Daily Delivery Obligation of Applicant to Buyer under Rate Schedule T-3 and CDS would not be in excess of the quantities shown in the above table.

Applicant indicates that, for all services under the proposed Rate Schedule CDS, Buyer would pay Applicant each month the sum of the demand, commodity and standby charges. Applicant further indicates that the CDS rates would be comprised of the underlying Texas Eastern PLD rates plus the incremental cost of service attributable to the facilities for which Applicant is requesting authorization herein.

Applicant indicates that, under Rate Schedule PFT-1, Buyer would pay Applicant the sum of the capacity reservation charge, the commodity charge and authorized overruns. Applicant states that the applicable rates to be charged by Applicant for all service under Rate Schedule PFT-1 would be a rate not in excess of the maximum capacity reservation rate plus the maximum commodity rate nor less than the minimum capacity reservation rate plus the minimum commodity rate. Within this range, it is indicated that Applicant may adjust the rates in its sole discretion.

Applicant submits that the rates for Rate Schedule CDS are based in part on Texas Eastern's Rate Schedule PLD and the rates for Rate Schedule PFT-1 are based on Texas Eastern's Rate Schedule FTS-3. Applicant also submits that these rate schedules provide that the rates under Rate Schedules CDS and PFT-1 would be automatically adjusted to flow through any changes in Texas Eastern PLD and FTS-3 rates. Applicant requests that the Commission specifically permit the flow through of all of Texas Eastern charges under Rate Schedule PLD and FTS-3 incurred by Applicant pursuant to the Agreement between Texas Eastern and Applicant attached as Exhibit H to the application.

Applicant also requests that the Commission waive Sections 154.38(d)(3) of the Regulations to permit the tracking of changes in Texas Eastern's rates in accordance with the provisions of Applicant's proposed Rate Schedules CDS and PFT-1.

Applicant states that its proposed Rate Schedule T-3 incorporates a two-part rate structure. It is indicated that the capacity reservation rate, per dekatherm of contract demand, would be a derivative of the CDS demand charge and results from the application of modified fixed-variable rate design principles and would be designed to recover depreciation, interest expense, fixed operation and maintenance expenses, and taxes other than income taxes. It is indicated that, for firm sales customers and Rate Schedule CDS who also contract for firm transportation services under Rate Schedule T-3, the T-3 tariff provides that to the extent Buyer is paying a Demand Charge under Section 3 of Rate Schedule CDS, this capacity reservation charge would be reduced by such payments. Also Applicant states that the equity return and related taxes and variable operating expenses (excluding fuel) would be recovered through a commodity rate not in excess of a maximum commodity rate of $0.0857 per dt as established in the tariff. It is indicated that transportation service for Buyers would be rendered under a service agreement which would provide *inter alia,* for a primary term of ten years. Applicant states that it would have the right pursuant to the service agreement to change its rates from time to time by an appropriate filing with the Commission.

Applicant requests that the proposed rates herein be accepted as initial rates for service under Rate Schedules CDS, PFT-1 and T-3 as of November 1, 1989.

In order to render the proposed sales and transportation service, Applicant proposes to construct and operate the following facilities in conjunction with the pipeline system of Texas Eastern:

2.56 miles of 42-inch pipeline looping Texas Eastern's existing pipeline in Pennsylvania.

24.5 miles of 36-inch pipeline replacing a like quantity of Texas Eastern's 20-inch Line No. 2 at the discharge of Texas Eastern's Compressor Station No. 25 in Pennsylvania.

1.0 mile of 36-inch pipeline replacing a like quantity of Texas Eastern's 24-inch Hanover Lateral Line No. 20-B in New Jersey.

11,000 HP gas turbine/compressor unit at Station 21-A.

11,000 HP gas turbine/compressor unit at Station 23.

Expand capacity of Texas Eastern's Measuring and Regulating Stations No. 087 and No. 949.

Applicant states that its pipeline facilities would be constructed and operated by Texas Eastern pursuant to a Joint Ownership Construction, Operation and Maintenance Agreement, and a Joint Ownership and Gas Compression and Metering Agreement to be executed between Applicant and Texas Eastern. It is explained that Texas Eastern would be responsible for constructing, administrating, operating, and maintaining the proposed facilities on a day to day basis.

Applicant estimates that the total cost of the storage and pipeline facilities to be $74,167,000. Applicant states that it would finance the proposed facilities with a 75%/25% debt/equity structure.

Applicant seeks a single Blanket Certificate pursuant to § 284.221 of the Commission's Regulations authorizing Applicant to render additional firm and interruptible transportation services on a open-access, non-discriminatory basis for other subscribing shippers. Applicant states that such transportation services would be rendered in accordance with Applicant's FERC Gas Tariff, and service agreements to be entered into between Applicant and subscribing shippers. Applicant further states that it would propose to render open-access firm transportation pursuant to Rate Schedule T-3. It is indicated that Applicant's open-access interruptible transportation Rate Schedule T-2 provides for a commodity rate to be charged by Applicant not in excess of a maximum commodity rate of $0.2952 per dt as established in the tariff and not less than the minimum commodity rate of $0.0100 per dt as established in the tariff.

Applicant explains that it would execute service agreements with Shippers desiring open-access transportation under Rate Schedules T-3 and T-2 upon satisfaction of the requirements set forth in Section 3 of Rate Schedule T-3 and T-2, respectively. Also, Applicant explains that in the event Applicant capacity is insufficient to meet the requirements of firm and interruptible services, Applicant would interrupt or reduce transportation under Rate Schedule T-2 prior to interruption of firm services. Applicant states that capacity available for transportation under Rate Schedule

T–2 would be allocated to T–2 shippers based on the flowing gas quantities shipped over the two most recent billing months for which data is available.

Applicant states that it intents to comply with the conditions set forth in paragraph (c) of § 284.221 of the Commission's regulations including the rate design requirements of § 284.7(d)(2).

It is noted that Applicant filed this application within the time-frame of the open season announced by the Commission in Docket No. CA87–451–000, concerning projects to supply natural gas to the Northeast U.S.

*Comment date:* February 29, 1988, in accordance with Standard Paragraph F at the end of this notice.

**4. East Tennessee Natural Gas Company**

[Docket No. CP88–206–000]

February 10, 1988.

Take notice that on January 22, 1988, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 10245, Knoxville, Tennessee 37939–0245, filed in Docket No. CP88–206–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 0.48 miles of 24-inch pipeline loop across the Fort Loudon Lake on the Tennessee River in Knox County, Tennessee, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

East Tennessee states that the purpose of the proposed pipeline loop is to protect the integrity of its system and to permit it to maintain service in the event of a failure of its existing single line which was originally installed in 1950. East Tennessee asserts that the proposed loop would not increase system throughput and would have a negligible impact on the capacity of the East Tennessee system.

East Tennessee estimates the cost of the propsoed facilities to be $2,207,700, which it is indicated, would be financed from funds on hand or internally generated funding sources.

*Comment date:* March 2, 1988, in accordance with Standard Paragraph F at the end of this notice.

**5. Panhandle Eastern Pipe Line Company**

[Docket No. CP88–215–000]

February 10, 1988.

Take notice that on January 28, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77001, filed in Docket No. CP88–215–000 an application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving abandonment of a certificate of public convenience and necessity which authorized the transportation of natural gas on behalf of the Toledo Edison Company (Toledo Edison), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle requests authorization to abandon the transportation service authorized in Docket No. CP82–289–000. It is indicated that upon receipt of the authorization sought herein, Panhandle would cancel Rate Schedule T–49 of its FERC Gas Tariff, Original Volume No. 2.

Panhandle states that the certificate issued July 29, 1982, in Docket No. CP82–289–000 authorized Panhandle to transport up to 5,000 Mcf per day for Toledo Edison on an interruptible basis from a Panhandle interconnection with Toledo Edison's distribution system at Defiance, Ohio to an interconnection between Panhandle and Toledo Edison's electric generating plant, also located in Defiance, Ohio. It is explained that the service gave Toledo Edison the flexibility to transfer certain gas supplies, when necessary from its distribution system to its generating plant.

Panhandle states that in 1985, Toledo Edison was sold to and subsequently merged with the Ohio Gas Company (Ohio). It is indicated that as a result of the consolidation, Toledo Edison no longer requires the subject transportation service. Accordingly, Panhandle notes, Toledo Edison notified Panhandle, by letter dated August 29, 1985, that it was providing notice of cancellation of the underlying transportation agreement in accordance with Article V of that agreement. Panhandle explains that the instant application is intended to implement the abandonment contemplated by Toledo Edison's cancellation of the transportation agreement.

*Comment date:* March 2, 1988, in accordance with Standard Paragraph F at the end of this notice.

**6. Panhandle Eastern Pipe Line Company**

[Docket No. CP88–213–000]

February 10, 1988.

Take notice that on January 27, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP88–213–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for authorization to abandon certain existing sales and storage services, render new sales, storage and transportation services, and effectuate certain tariff provisions which include a new gas supply inventory charge, a mechanism for recovery of past take-or-pay costs and revision of procedures for gas supply related curtailment, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Panhandle proposes that the existing sales service provided to its partial requirements and full requirements customers, except for the service provided to its Small General Service customers, under Rate Schedules G–1, G–2, LS–1, LS–2 S–1, SS–1 and CS–1 be abandoned and replaced with a single sales service under new Rate Schedules, S–1, S–2 and S–3. It is stated that the proposed S Rate Schedules would provide for a uniform year-round maximum daily contract demand volume and for maximum winter and summer seasonal entitlements to be selected by each customer within a full range from zero to its existing certificated level of contract demand. It is further stated that these renegotiated levels of contract volumes would be reflected in new service agreements which would have primary terms of between three to ten years that would be chosen by each customer. Panhandle also proposes to provide firm transportation service under trhe terms of existing Rate Schedule PT–firm service to any existing customer under Rate Schedules G–1, G–2, G–3, LS–1, LS–2, S–1, SS–1 and CS–1, to the extent that such customer's current firm sales capacity is selected for conversion to firm transportation.

Panhandle further proposes to abandon existing storage service provided under Rate Schedules TS–2, TS–3, TS–4, TS–5 and TS–6. Panhandle proposes to provide a new storage service which would be available to all of its sales customers under new Rate Schedule ST. It is stated that the levels of service would be selected by each customer desiring this storage. It is also stated that Rate Schedule ST includes firm transportation of the stored gas between the customer's Panhandle delivery points and the storage facilities, so long as the total daily quantity of such storage transportation plus sales deliveries does not exceed the maximum daily contract demand for sales.

Panhandle also requests blanket authority to provide interruptible sale service under new Rate Schedule I. It is stated that the service would be on effectively a spot basis to its firm sales customers and to any other jurisdictional, sales for resale purchasers to the extent that Panhandle has available suppliers that are in

excess of the requirements of its firm resale service and direct sales. It is further stated that the sales price and period of the service agreement would be individually negotiated with each customer, subject to a maximum price of Panhandle's then-effective 100 percent load factor rate, and to a minimum price consisting of Panhandle's weighted average cost of gas plus a variable delivery cost component, the AGA unit charge and GRI funding unit.

Panhandle further proposes to abandon service under existing Rate Schedules I–1, I–2, I–3, S–1, WS–1, WS–2 and WS–3. Panhandle also requests authority to file by October 1, 1988 and to make effective on November 1, 1988, the following tariff provisions in Original Volume No. 1 of Panhandle's FERC Gas Tariff:

(a) New Rate Schedules S–1, S–2, S–3, ST, I, and forms of service agreement applicable thereto;

(b) New Section 23 "Gas Supply Inventory Charge", and Section 24, "Gas Purchase Contract Funding Adjustment"; and

(c) Revised Section 1, "Definitions", Section 15.1 "Manner of Change" in contact quantities, Section 16.1 "Operating or Remedial Curtailment or Interruption", and Section 16.4(b), 16.5(b), 16.6(b)–(d), 16.9 "Customer Report of Base Period Usage", and 16.10 "Definitions", applicable to supply curtailment.

Panhandle further proposes that by October 1, 1988, Panhandle would file initial rates for these proposed services: (1) Which would be based on the cost of service and rate principles filed in Docket No. RP87–103, except that the throughput levels for cost allocation and rate design would be adjusted to reflect the service levels that would have been chosen by the customers, and (2) which would be collected subject to refund or modification depending on the outcome of the Docket No. RP87–103 proceeding.

**COMMENT DATE:** March 2, 1988, in accordance with Standard Paragraph F at the end of this notice.

### 7. Panhandle Eastern Pipe Line Company

[Docket No. CP88–208–000]

February 10, 1988.

Take notice that on January 25, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP88–208–000 an application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving abandonment of a certificate of public convenience and necessity which authorized the transportation of natural gas on behalf of UGI Corporation (UGI), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that Panhandle received authority in Docket Nos. CP84–758–000 and CP84–758–001, order issued March 28, 1985, to transport up to 10,000 Mcf of natural gas per day, on an interruptible basis for UGI's account in accordance with a June 30, 1984 transportation agreement. Panhandle states that UGI has not utilized this service in over two years, and has further agreed to the proposed abandonment herein. Panhandle also states that upon receipt of authorization sought herein it would cancel Rate Schedule T–60 of its FERC Gas Tariff, Original Volume No. 2.

**COMMENT DATE:** March 2, 1988, in accordance with Standard Paragraph F at the end of this notice.

### 8. United Gas Pipe Line Company

[Docket No. CP88–210–000]

February 10, 1988.

Take notice that on January 25, 1988, United Gas Pipe Line Company (United), 600 Travis Street, Houston, Texas 77251–1478, filed in Docket No. CP88–210–000 an application pursuant to section 7(c) of the Natural Gas Act for authorization to provide interruptible transportation service, on a self-implementing basis, consistent with the "open-access" objectives of Order Nos. 436, 436–A and 500, through capacity dedicated to United by Stingray Pipeline Company (Stingray) under its Rate Schedule T–2, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it would make available to any an all shippers on a non-discriminatory first-come, first-served basis that portion of its capacity in Stingray which from time-to-time may be surplus to United's need to maintain adequate transportation capacity to serve its system sales requirements. United also seeks to amend the certificate issued in Docket No. CP73–27, *et al.*, to eliminate any implied destination or end-use restriction that may exist under that certificate so that United's proposed third party capacity program would be available to the greatest number of prospective shippers.

United proposes to provide such service under its proposed Rate Schedule ITS-Offsystem and the rates charged would be commensurate with the rates imposed upon United by Stingray. United states that the maximum rate is designed to permit United to recover on a volumetric basis the demand costs it incurs under Stingray's Rate Schedule T–2 and the minimum rate proposed would be the variable cost incurred by United and charged by Stingray for the services provided under the then effective Stingray rates. United further proposes that either the jurisdictional portion of the demand revenues recovered pursuant to Rate Schedule ITS-Offsystem be credited to United's other customers to whom the costs have been assigned in order to offset the associated demand costs that are now borne by these customers, or that the volumes transported pursuant to this rate schedule be taken into consideration in the design of United's jurisdictional rates as such are appropriately determined in a United rate proceeding.

*Comment date:* March 2, 1988, in accordance with Standard Paragraph F at the end of this notice.

### 9. United Gas Pipe Line Company

[Docket No. CP88–196–000]

February 10, 1988.

Take notice that on January 15, 1988, United Gas Pipe Line Company (United), 600 Travis Street, Houston, Texas 77002 filed in Docket No. CP88–196–000 an application pursuant to section 7(c) of the Natural Gas Act for authorization to provide interruptible transportation services on a self-implementing basis under an "open-access" program consistent with the objectives of Order Nos. 436 and 500, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, United states that it would provide such transportation through capacity dedicated to United by the High Island Offshore System (HIOS) and the U–T Offshore System (UTOS) under their Rate Schedules T–5 & 6 and T–3, respectively. United states that in order to provide third party shippers in the maximum flexibility in terms of access conditions, United also seeks to amend the underlying certificates in Docket Nos. CP75–104, *et al.*, and CP76–118, *et al.*, by eliminating any implied destination or end-use restriction which may be deemed to attach to the transportation service certificated therein. Finally, United requests to establish a rate schedule designated Rate Schedule ITS-Offsystem to implement "open-access" to the third party capacity dedicated to United from time to time under HIOS Rate Schedules T–5 & 6 and UTOS Rate Schedule T–3.

United states that the maximum rates proposed to be charged for the interruptible transportation service

would be a fully-allocated 100 percent load factor rate which is designed to permit United to recover on a volumetric basis the demand costs it incurs under Rate Schedules T-5 and 6 and T-3 and that the minimum rates would be the variable costs incurred by United and charged by HIOS and UTOS for the services provided based upon the then effective HIOS and UTOS rates. United further proposes either that the jurisdictional portion of the demand revenues recovered pursuant to Rate Schedule ITS-Offsystem be credited to United's other customers to whom those costs have been assigned in order to offset the associated demand costs that are now borne by these customers or that the volumes transported pursuant to this rate schedule be taken into consideration in the design of United's jurisdictional rates as such are appropriately determined in a United rate proceeding.

*Comment date:* March 2, 1988, in accordance with Standard Paragraph F at the end of this notice.

**Standard Paragraphs**

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with requirements of the Commissions' Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-3335 Filed 2-16-88; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP85-169-031]**

## Consolidated Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 11, 1988.

Take notice that CNG Transmission Corporation, formerly Consolidated Gas Transmission Corporation (Consolidated) on February 8, 1988, filed the following revisions to First Revised Volume No. 1 of its FERC Gas Tariff:

Substitute Original Sheet Nos. 85, 119, 120, 121, 124

Alternate Substitute Original Sheet No. 124

First Revised Sheet Nos. 84, 85 and 86

Consolidated states that the proposed effective dates are December 1, 1987 and February 1, 1988. The tariff sheets are being filed to comply with the Commission's Order issued January 22, 1988, in this docket.

Copies of the filing were served upon parties to Docket No. RP85-169 and Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All motions or protests should be filed on or before February 19, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-3337 Filed 2-16-88; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP88-55-000]**

## Raton Gas Transmission Co.; Change in Rates

February 11, 1988.

Take notice that Raton Gas Transmission Company (Raton) on February 5, 1988, tendered for filing, proposed changes in its FERC Gas Tariff, Volume No. 1, consisting of Ninth Revised Sheet No. 4. The change rate is for jurisdictional sales and service.

Raton states that the instant filing is a minor rate change as required by 18 CFR § 154.63(a)(3) of the Regulations. This filing restores Contract Demand Quantities which were improperly lowered in Docket No. RP87-102 and reallocates cost of service between Demand and Commodity. It is proposed be become effective March 7, 1988.

Copies of Raton's filing are on file with the Commission and are available for public inspection. In addition, copies have been served on Raton's Jurisdictional Customers and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before February 19, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-3338 Filed 2-16-88; 8 45 am]

BILLING CODE 6717-01-M

## Office of Conservation and Renewable Energy

### National Energy Extension Service Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

*Name:* National Energy Extension Service Advisory Board

*Date and Time:*

Monday, March 21, 1988, 8:00 a.m.–5:00 p.m.

Tuesday, March 22, 1988, 8:00 a.m.–12:00 noon

*Place:* Omni Georgetown Hotel, 2121 P. Street NW., Washington DC 20037

*Contact:* Susan D. Heard, Department of Energy, Forrestal Building—6A081, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202–586–8290.

*Purpose of the Board:* The Board was established to carry on a continuing review of the National Energy Extension Service and the plans and activities of each State in implementing Energy Extension Service programs. Additionally, the Board is responsible for reporting on an annual basis to the Congress, the Secretary of Energy, and the Director of the Energy Extension Service.

*Tentative Agenda:* March 21, 1988.

- Overview of EES Programs
- Review of the Board's draft Ninth Annual Report
- Public comment (10 minute rule)

March 22, 1988

- Review and final approval of Ninth Annual Report
- Public comment (10 minute rule)

*Public Participation:* The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Susan D. Heard at 202–586–8290. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

*Transcripts:* Available for public review and copying at the Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue S.W., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday thru Friday, except Federal holidays.

Issued at Washington, DC on February 10, 1988.

**J. Robert Franklin,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 88–3287 Filed 2–16–88; 8:45 am]

BILLING CODE 6450–01–M

## Office of Energy Research

### Magnetic Fusion Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

*Name:* Magnetic Fusion Advisory Committee

*Date and Time:*

Tuesday, March 1, 1988, 8:30 am – 5:00 pm

Wednesday, March 2, 1988, 8:30 am – 12:00 pm

*Location:* Lawrence Livermore National Laboratory, Building 123, Auditorium, 7000 East Avenue, Livermore, California 94550

*Contact:* James M. Turner, Office of Fusion Energy, Office of Energy Research, ER–51, U.S. Department of Energy, Mail Stop J–204, Washington, DC 20545, Phone: (301)–353–4941

*Purpose of the Committee:* To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

MFAC

Agenda Outline

*March 1, 1988*

1. 8:30 a.m. Welcome
2. Status of Fusion Program, Program Planning, FY 88 and 89 Budgets
   J. Clarke
3. Compact Ignition Tokamak Status
   H. Furth
   J. Schmidt
4. International Thermonuclear Experimental Reactor Status
   J. Gilleland
   D. Baldwin
5. Report of Panel 19 (Plasma Theory)
6. MFAC Discussion

   Lunch
7. Interim Report of Panel 18 (Environment, Safety and Economics)
   P. Staudhammer
8. MFAC Discussion of Panel 18 Report
9. Livermore Microwave Tokamak Experiment (MTX) Program
   K. Thomassen
10. Public Comments
11. Tour of MTX Facility

**(Adjourn)**

*MFAC 2nd Day*

*March 2, 1988*

1. 8:30 a.m. Completion of TARA experiments
   R. Post
2. MFAC Findings on Panel 19 (Plasma Theory)
3. Interim Report on Panel 20—C. Baker (Long-Range Technology Development)
4. MFAC Discussion of Panels 18 and 20 Reports
5. Public Comments

**(Adjourn 12:00 p.m.)**

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact James M. Turner at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

*Minutes:* Available for public review and copying approximately 30 days following the meeting at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on February 10, 1988.

**J. Robert Franklin,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 88–3330 Filed 2–16–88; 8:45 am]

BILLING CODE 6450–01–m

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-30284; FRL-3328-7]

### American Cyanamid Co. et al.; Applications To Register Pesticide Products

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products and products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**DATE:** Comment by March 18, 1988.

**ADDRESS:** By mail submit comments identified by the document control number [OPP-30284] and the registration/file number, attention Product Manager (PM) named in each application at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Registration Division (TS-767C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St. SW., Washington, DC 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

| Product manager | Office location/telephone number | Address |
|---|---|---|
| PM 15, George LaRocea | Rm. 204, Cm#2 (703-557-2400) | EPA, 1921 Jefferson Davis Hwy., Arlington, VA 22202. |
| PM 17, Phil Hutton | Rm. 207, Cm#2 (703-557-2690) | Do. |
| PM 25, Robert Taylor | Rm. 245, Cm#2 (703-557-1800) | Do. |

**SUPPLEMENTARY INFORMATION:** EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products and products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

### I. Products Containing Active Ingredients Not Included in Any Previously Registered Product.

1. *File Symbol: 241-GNO.* Applicant: American Cyanamid Co., PO Box 400, Princeton, NJ 08540. Product name: Pursuit Technical. Herbicide. Active ingredient: Imazethapyr (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1-*H*-imidazol-2-yl]-5-ethyl-3-pyridinecarboxylic acid 90%. Proposed classification/Use: General. For formulating use only. (PM 25)

2. *File Symbol:* 241-GRN. Applicant: American Cyanamid Co., PO Box 400, Princeton, NJ 08540. Product name: Pursuit. Herbicide. Active ingredient: Ammonium salt of (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-ethyl-3-pyridinecarboxylic acid 22.87%. Proposed classification/Use: General. For use in soybeans. (PM 25)

3. *File Symbol:* 1471-RTR. Applicant: Elanco Products, Div., of Eli Lilly Co., PO Box 708, Greenfield, IN 46140. Product name: Cutless® 50W. Herbicide. Active ingredient: Flurprimidol alpha-(1-methylethyl)-alpha-[4-(trifluoromethoxy)phenyl]-5-pyrimidinemethanol 50%. Proposed classification/Use: General. Cutless is being used as a foliar plant growth regulator which reduces mowing frequency and improves quality of cool and warm season turfgrasses on golf course fairways. Type registration: Conditional. (PM 25)

4. *File Symbol:* 1471-RTG. Applicant: Elanco Products, Co. Product name: Cutless ®TP. Herbicide. Active ingredient: Flurprimidol alpha-(1-methylethyl)-alpha-[4-(trifluoromethoxy)phenyl]-5-pyrimidinemethanol 99%. Proposed classification/Use: General. For use on ornamental trees to reduce the growth and pruning frequency. (PM 25)

5. *File Symbol:* 275-TT. Applicant: Abbott Laboratories, 1400 Sheridan Road, North Chicago, IL 60064. Product name: *Bacillus Sphaericus* H-5a5b Granules. Microbial Insecticide. Active ingredient: *Bacillus sphaericus* Serotype 5a5b dried concentrate (average activity=4000 B.s.ITU/mg) 2.5%. Proposed classification/Use: General. For mosquito control. (PM 17)

### II. Product Involving a Changed Use Pattern

*File Symbol:* 39398-ET. Applicant: Sumitomo Chemical Co., Ltd., 1330 Dillon Heights Ave., Baltimore, MD 21228. Product name: Red Earth G-8-F Aqua Fumigator. Insecticide. Active ingredient: (RS)-alpha-cyano-3-phenoxybenzyl (IRS)-cis-, transchrysanthemate 6.98%. Proposed classification/Use: General. To include in its presently registered use, a new indoor use on roaches, bedbugs, fleas, mosquitoes, and other flying insects. (PM 15)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone

the PMSD office (703–557–3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: February 3, 1988.

Edwin F. Tinsworth,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 88–3164 Filed 2–16–88; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30285; FRL–3328–4]

## Ecogen Inc.; Application to Register a Pesticide Product

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of an application to conditionally register a pesticide product containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**DATE:** Comment by March 18, 1988.

**ADDRESS:** .

By mail submit comments identified by the document control number [OOP–30285] and the file number (55638–L) to: Information Services Section (TS–757C), Program Managment and Support Division, Attn: Product Manager (PM) 21, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

In person, bring comments to: Rm. 236, CM# 2, Attn: PM 21, Registration Division (TS–767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lois Rossi, PM 21, Rm. 227, (703–557–1900).

**SUPPLEMENTARY INFORMATION:** Ecogen Inc., 2005 Cabot Blvd., West Longhorne, PA 19047–1810, has submitted an application to EPA to conditionally register the pesticide product Dagger™ G Biofungicide, EPA File Symbol 55638–L, containing the active ingredient *pseudomonas fluorescens* EG1053 at 20 percent, pursuant to the provisions of section 3(c)(4) of FIFRA. The application proposes that the product be classified for general use as an in-furrow soil application at planting time on cotton. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Managment and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703–557–3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: February 1, 1988.

Edwin F. Tinsworth,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 88–3165 Filed 2–16–88; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30286; FRL—3328–3]

## Igene Biotechnology Inc.; Application to Register a Pesticide Product

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of an application to conditionally register a pesticide product containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**DATE:** Comment by March 18, 1988.

**ADDRESS:**

By mail submit comments identified by the document control number [OPP–30286] and the file number (58200–O) to: Information Services Section (TS–757C), Program Management and Support Division, Attn: Product Manager (PM) 21, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

In person, bring comments to: Rm. 236, CM# 2, Attn: PM 21, Registration Division (TS–767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lois Rossi, PM 21, Rm. 227, (703–557–1900).

**SUPPLEMENTARY INFORMATION:** Igene Biotechnology Inc., 9110 Red Branch Road, Columbia, MD 21045, has submitted an application to EPA to conditionally register the pesticide product ClandoSan® 618 a chitin nematicide, EPA File Symbol 58200–O, containing the active ingredient chitin (poly-*N*-acetyl-*D*-glucosamine)-protein complex at 25 percent, pursuant to the provisions of section 3(c)(4) of FIFRA. The application proposes that the product be classified for general use, for direct soil application on ornamental plants, lawns and turfs. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the

extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703–557–3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: February 1, 1988.

**Edwin F. Tinsworth,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 88–3166 Filed 2–16–88; 8:45 am]

BILLING CODE 6560–50–M

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**[OPP–180750; FRL 3328–5]**

## Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has granted specific exemptions for the control of various pests to the seven States listed below. Three crisis exemptions were initiated, one by the California Department of Food and Agriculture and two by the United States Department of Agriculture. Two quarantine exemptions were granted to the United States Department of Agriculture. A public health exemption was granted to the Montana Department of Livestock. Also listed is a denial of a request for a specific exemption from the California Department of Food and Agriculture. These exemptions, issued during the months of October and November, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

**DATES:** See each specific, crisis, quarantine, denial, and public health exemption for its effective date.

**FOR FURTHER INFORMATION CONTACT:** See each emergency exemption for the name of the contact person. The following information applies to all contact persons:

By mail: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM# 2 1921 Jefferson Davis Highway, Arlington, VA, (703) 557–1806).

**SUPPLEMENTARY INFORMATION:** EPA has granted specific exemptions to the:

1. Arkansas State Plant Board for the use of metalaxyl on blueberries to control phytophthora root rot; October 29, 1987, to March 30, 1988. (Libby Pemberton)

2. California Department of Food and Agriculture for the use of prometryn on parsley; fresh and grown for dehydration to control weeds; October 5, 1987, to May 31, 1988. (Robert Forrest)

3. California Department of Food and Agriculture for the use of triadimefon on artichokes (fresh and processed for market) to control powdery mildew; November 4, 1987, to September 30, 1988. (Jim Tompkins)

4. California Department of Food and Agriculture for the use of hydrogen cyanamide on table grapes to promote uniform bud-break; November 24, 1987, to February 15, 1988. A notice was published in the **Federal Register** of November 3, 1987 (52 FR 42149). This exemption was issued on the basis that an emergency condition exists and the use will not cause unreasonable adverse effects to the environment. (Libby Pemberton)

5. Colorado Department of Agriculture for the use of sodium chlorate on black-eyed peas as a desiccant/harvest aid; October 13, 1987, to October 31, 1988. (Robert Forrest)

6. Florida Department of Agriculture and Consumer Services for the use of fluazifop-butyl on head lettuce and celery to control goosegrass, crabgrass, bermudagrass, foxtails, panicum, and barnyardgrass; October 6, 1987, to July 31, 1988. (Libby Pemberton)

7. Georgia Department of Agriculture for the use of sodium chlorate on southern peas and lima beans as a harvest aid desiccant; October 5, 1987, to November 15, 1987. Georgia had initiated a crisis exemption for this use. (Robert Forrest)

8. Kansas State Plant Board of Agriculture for the use of sodium chlorate on black-eyed peas as a desiccant/harvest aid; October 6, 1987, to October 31, 1987. (Robert Forrest)

9. Texas Department of Agriculture for the use of DCNA (botran) on peanuts to control sclerotinia; October 7, 1987, to April 30, 1988. Texas had initiated a crisis exemption for this use. (Stan Austin)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on November 9, 1987, for the use of sethoxydim on lettuce, broccoli, and cauliflower to control watergrass. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. (Robert Forrest)

2. United States Department of Agriculture/APHIS on October 2, 1987, for the use of calcium cyanide on bee hives to control the mite, *Varroa jacobsoni*, Oudemans. APHIS has requested a quarantine exemption to continue this program. The need for this program is expected to last until October 1, 1990. (Libby Pemberton)

3. United States Department of Agriculture/APHIS on October 20, 1987, for the use of (alpha-RS, 2R)-fluvalinate[(RS)-alpha-cyano-3-phenoxybenzyl (R)–2–[2-chloro-4-trifluoromethyl)anilino]-3-methylbutanoate] on bee hives (honey will be used as bee food or destroyed) to control the varroa mite (*Varroa jacobsoni*, oudemans). Since it was anticipated that this program would be needed for more than 15 days, USDA requested a quarantine exemption to continue it. (Libby Pemberton)

Quarantine exemptions were granted to the:

1. United States Department of Agriculture/APHIS for the use of coumaphos on fresh animal hides and trophy heads to control ticks; October 20, 1987, to October 20, 1990. (Stan Austin)

2. United States Department of Agriculture/APHIS, PPQ for the use of calcium cyanide on bee hives to control Varroa mites; November 5, 1987, to October 1, 1990. USDA had initiated a crisis exemption for this use. (Libby Pemberton)

EPA has denied a request from the California Department of Food and Agriculture for the use of mancozeb on dates to control Alternaria alternata. A notice of receipt published in the **Federal Register** of August 26, 1987 (52 FR 32167). The Agency has denied this request on the basis that the proposed use would result in residues in or on dates and processed dates which cannot be toxicologically supported. The Agency has initiated a Special Review of the ethylene bisdithiocarbamate (EBDC) pesticides, including mancozeb. Exposure to ethylenethiourea (ETU) may pose an oncogenic risk to humans from dietary exposure. (Libby Pemberton)

EPA has granted a public health exemption request from the Montana Department of Livestock for the use of strychnine in eggs to control rabid skunks. A notice of receipt was published in the **Federal Register** of October 20, 1987 (52 FR 38967). The

exemption was granted on the following basis:

1. Montana has shown that the incidence of rabies has increased sharply in various counties. Coinciding with this increase, there has been an increase in the number of human exposures to rabies; thus, there is a significant risk to human life.

2. Treatment of humans exposed to rabies is expensive and causes great anxiety. Without treatment, death will result. An emergency condition does appear to exist.

3. There are no alternative registered pesticides for this use, and alternative control methods are not economically or environmentally feasible.

4. The use strychnine will reduce local populations of skunks. Suppression of these vector animals is believed to reduce the opportunity for exposure of humans, domestic animals, and wild species to rabies.

5. Strychnine egg baits have been used over the past 13 years under emergency exemptions without the occurrence of any substantial adverse effects. This use will not cause unreasonable adverse effects on the environment.

6. The Order, suspending the registration of strychnine, sodium cyanide, and sodium fluoroaluminate for predator uses was modified to permit the registration of strychnine to reduce populations of skunks as a means of suppressing the spread of rabies to humans and domestic animals.

7. Reasonable progress is being made toward registration of this use under section 3. (Jim Tompkins)

**Authority:** 7 U.S.C. 136.

Dated: February 4, 1988.

**Douglas D. Campt,**

*Director, Office of Pesticide Programs.*

[FR Doc. 88-3167 Filed 2-16-88; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

February 10, 1988.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington DC 20037. For further information on these submissions contact Terry Johnson, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact J. Timothy Sphrehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

*OMB Number:* 3060-0119

*Title:* Section 90.145, Special Temporary Authority (STA)

*Action:* Extension

*Respondents:* Individuals or households, state or local governments, businesses (including small businesses), and non-profit institutions

*Frequency of Response:* On occasion

*Estimated Annual Burden:* 6,000 Responses; 3,000 Hours

*Needs and Uses:* A Special Temporary Authority (STA) permits an applicant to conduct operations for up to 180 days without going through the normal application forms and procedures set out in Part 90. Under certain circumstances specified in Rule section 90.145, the Commission will consider Special Temporary Authorizations. This information is used by Commission personnel to determine if a grant of a STA is warranted and to allow the Commission to have certain minimum information about the station's characteristics should interference problems arise.

*OMB Number:* 3060-0270

*Title:* Section 90.443, Content of Station Records

*Action:* Extension

*Respondents:* Individuals or households, state or local governments, businesses (including small businesses), and non-profit institutions

*Frequency of Response:* Recordkeeping requirement

*Estimated Annual Burden:* 57,180 Recordkeepers; 4,746 Hours

*Needs and Uses:* Rule section 90.443 specifies the records required to be maintained by station licensees. These records indicate maintenance performed on the licensee's equipment, and instances of tower light checks and failures, if any, and corrective action taken. The maintenance records could be used by the licensee or Commission field personnel to note any recurring equipment problems or conditions that may lead to degraded equipment performance and/or interference generation.

*OMB Number:* 3060-0274

*Title:* Section 94.45, Modification of License

*Action:* Revision

*Respondents:* Individuals or households, state or local governments, businesses (including small businesses), and non-profit institutions

*Frequency of Response:* On occasion

*Estimated Annual Burden:* 40 Responses; 7 Hours

*Needs and Uses:* Rule section 90.45(b) requires the licensee changing its name and/or address to notify the Commission by letter of such a change. This requirement is necessary for maintaining an accurate data base. This notification requirement permits the Commission to quickly contact the licensee when necessary. The resolution of destructive interference cases would be needlessly hampered without this notification requirement because of inability to quickly contact licensees.

**Note:** A minor editorial change was made which does not affect the burden of the rule.

Federal Communications Commission.

**H. Walker Feaster III,**

*Acting Secretary.*

[FR Doc. 88-3349 Filed 2-16-88; 8:45am]

BILLING CODE 6712-01-M

**[Report No. 1710]**

### Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

February 5, 1988.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202-857-3800). Oppositions to these petitions must be filed by March 4, 1988. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

*Subject:* Amendment of § 73.202(b), Table of Allotments FM Broadcast Stations. (Frankfort, Kentucky) (MM Docket No. 86-379, RM-5429) Number of petitions received: 1

*Subject:* Amendment of § 73.202(b), Table of FM Allotments. (Siloam Springs, Arkansas) (MM Docket No. 86-492, RM-5390) Number of petitions received: 1

*Subject:* Amendment of Part 80 of the Rules Concerning Applications for VHF Public Coast Stations. (PR

Docket No. 87-132) Number of petitions received: 1

Federal Communications Commission.

**H. Walker Feaster III,**

*Acting Secretary.*

[FR Doc. 88-3344 Filed 2-16-88; 8:45 am]

BILLING CODE 6712-01-M

## Specialized Mobile Radio Service Frequencies To Be Available for Reassignment

The following channels were recently recovered from licensees who failed to meet the Commission's loading or construction requirements and will be available for reassignment to trunked Specialized Mobile Radio (SMR) applicants. They were previously licensed at the coordinates indicated and are available at any location within the geographic area which will protect existing SMR systems pursuant to Rules 90.362 and 90.621.

856.1625, 857.1625,
858.1625, 860.1625 MHz
Phoenix, AZ
33-19-58 North
112-03-48 West

863.6375, 864.3875,
865.1375, 865.8875 MHz
Issaquah, WA
47-29-19 North
121-56-45 West

856/860.0625 MHz
Delafield, WI
43-02-51 North
88-25-20 West

856/860.7375 MHz
Brookfield, OH
41-14-20 North
80-34-08 West

864.1375, 864.8875,
865.6375 MHz
Bellevue, WA
47-32-31 North
122-06-29 West

856/859.5375 MHz
Orlando, FL
28-30-42 North
81-14-09 West

856/860.8125 MHz
Canton, OH
40-45-05 North
81-26-36 West

851.7375, 852.4875,
853.2375, 853.9875
854.7375 MHz
Seattle, WA
47-30-14 North
121-58-28 West

Pursuant to the Public Notice of January 6, 1986, Mimeo No. 1805, these channels will be available for reassignment on March 3, 1988. All applications received before March 3, 1988 will be dismissed. The first application received after the channels become available for reassignment opens the filing window. The window stays open only for the day on which the first application is received. *All applications MUST reference the date and DA number of this Public Notice in order to be considered for these frequencies.*

There is a $30.00 fee required for each application filed. All checks should be made payable to the FCC. Applications should be mailed to: Federal Communications Commission, 800 Megahertz Service, P.O. Box 360416M, Pittsburgh, PA 15251-6416. Applications may also be filed in person between 9:00 AM and 3:00 PM at the following address: Federal Communications Commission, c/o Mellon Bank, Three Mellon Bank Center, 525 William Penn Way, 27th Floor, Room 153-2713, Pittsburgh, PA 15259, Attention: (Wholesale Lockbox Shift Supervisor).

For further information, refer to Public Notice of January 6, 1986 or contact Riley Hollingsworth or Betty Woolford (202) 632-7125 of the Private Radio Bureau's Land Mobile and Microwave Division.

Federal Communications Commission.

**H. Walker Feaster III,**

*Acting Secretary.*

[FR Doc. 88-3346 Filed 2-16-88; 8:45 am]

BILLING CODE 6712-1-M

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Information Collection Submitted to OMB for Review

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

*Title of Information Collection*: Public Disclosure by Banks (OMB No. 3064-0090).

*Background*: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for the review and approval for continuing the information collection system identified above.

**ADDRESS:** Written comments regarding the submission should be addressed to Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429.

*Comments*: Comments on this collection of information should be submitted on or before March 18, 1988.

**FOR FURTHER INFORMATION CONTACT:** Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

**SUMMARY:** The FDIC has submitted to OMB, as requested, the information collection requirements contained in final rule 12 CFR Part 350—*Disclosure of Financial and Other Information by FDIC-Insured State Nonmember Banks.* The FDIC published the final rule at 52 FR 49377, December 31, 1987. Banks subject to the rule are required to notify the general public, and in some instances shareholders, that disclosure statements are available on request. Required disclosures consist of financial reports for the current and preceding year and this data can be photocopied directly from the year-end call reports. The rule allows, but does not require, the inclusion of management discussion and analysis as part of the information to be disclosed. The aggregate annual paperwork burden imposed on insured state nonmember banks by this information collection is estimated to be 4,250 hours.

Dated: February 11, 1988.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[FR Doc. 88-3356 Filed 2-16-88; 8:45 am]

BILLING CODE 6714-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA-812-DR]**

### California; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA-812-DR), dated February 5, 1988, and related determinations.

**DATED:** February 5, 1988.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency

Management Agency, Washington, DC 20472 (202) 646-3614.

*Notice:* Notice is hereby given that, in a letter dated February 5, 1988, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the State of California caused by severe winds, rainstorms, high tides, and flooding beginning on January 17, 1988, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I, therefore, declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint John D. Swanson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

The Counties of Los Angeles, Orange, San Diego, and Santa Barbara, and the City of San Buenaventura for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

**Julius W. Becton, Jr.,**

*Director, Federal Emergency Management Agency.*

[FR Doc. 88-3270 Filed 2-16-88; 8:45 am]

BILLING CODE 6718-02-M

## FEDERAL HOME LOAN BANK BOARD

### Magnet Bank, F.S.B., Charleston, WV; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Magnet Bank, F.S.B., Charleston, West Virginia, on February 10, 1988.

Dated: February 11, 1988.

By the Federal Home Loan Bank Board.

**John M. Buckley, Jr.,**

*Secretary.*

[FR Doc. 88-3323 Filed 2-16-88; 8:45 am]

BILLING CODE 6720-01-M

## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may impact and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.:* 203-011170
*Title:* Ro-Ro Chartering Agreement
*Parties:* Barber Blue Sea, NOSAC
*Synopsis:* The proposed agreement would permit the parties to charter space from one another on Ro-Ro vessels and to agree on sailing schedules in the trade between U.S. ports and points, and ports and points in the Far East and Panama. It would also permit the parties to allocate cargoes by type, volume and/or market.

By Order of the Federal Maritime Commission.

Dated: February 11, 1988.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 88-3334 Filed 2-16-88; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Fleet Norstar Financial Group, Inc.; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 4, 1988.

**A. Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Fleet/Norstar Financial Group, Inc., Albany, New York, and Fleet Financial Group, Inc., Providence, Rhode Island; to acquire Norstar Brokerage Corporation, New York, New York, and thereby engage in the purchase and sale of gold and silver bullion, bars, rounds and coins (precious metals) solely as agent for the account of customers, and provision of the following services with respect to precious metals: (a) Extending credit pursuant to applicable regulation; (b) paying interest on customers' net

free balances awaiting investment; (c) providing through Norstar Brokerage Corporation, New York, New York and its wholly-owned subsidiary, NB Clearing Corporation, New York, New York (Clearing) or by contract with a nonaffiliate, custodial services consisting of the safekeeping of customers' precious metals, accounting and record keeping with respect to the precious metals in such custody and other ancillary services; (d) providing cash management services, including offering customers interest on net free balances combined with customer access through debt cards and checking accounts offered under an arrangement with a bank and "sweep" services pursuant to which idle customer balances exceeding a predetermined minimum are automatically invested in a money market fund, in all cases in accordance with the requirements of and to the extent permitted by law; and (e) offering individual retirement account and owner employee plans.

Board of Governors of the Federal Reserve System, February 10, 1988.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 88-3266 Filed 2-16-88; 8:45 am]

BILLING CODE 6210-01-M

## Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Joe Tom and Anita Haltom et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the office of the Board of Governors. Comments must be received not later than March 4, 1988.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Joe Tom Haltom and Anita Haltom,* Benton, Kentucky; to acquire an additional 7.44 percent of the voting shares of BMC Bankcorp, Inc., Benton, Kentucky, and thereby indirectly acquire Graves County Bank, Inc., Wingo, Kentucky, and Bank of Marshall County, Benton, Kentucky.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *John David Davenport,* Edmond, Oklahoma; to acquire an additional 16.9 percent of the voting shares of Quail Creek Bancshares, Inc., Oklahoma City, Oklahoma, and thereby indirectly acquire Quail Creek Bank, N.A., Oklahoma City, Oklahoma.

2. *David L. and Rebecca S. Moritz,* Arlington, Texas, to acquire 27.22 percent and B & D Trust, Beloit, Kansas, and Thomas D. and Paul S. Moritz, both of Beloit, Kansas, as co-trustees, to acquire 27.22 percent of Guaranty, Inc., Beloit, Kansas, and thereby indirectly acquire Guaranty State Bank and Trust Company, Beloit, Kansas. David and Rebecca Moritz will transfer their newly acquired ownership to the Trust.

Board of Governors of the Federal Reserve System, February 10, 1988.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 88-3265 Filed 2-16-88; 8:45 am]

BILLING CODE 6210-10-M

## Wainwright Capital Corp. et al.; Formations of Acquisitions by, and Mergers on Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulataion Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that could be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 4, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Wainwright Capital Corp.,* Wainwright Capital Management Company L.P., Wainwright Capital Company L.P., and B & T Holding Company L.P., all of Boston, Massachusetts; to become bank holding companies by acquiring at least 85 percent of the voting shares of Wainwright Bank & Trust Company, Boston, Massachuetts.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *State Bancshares, Inc.,* Haverford, Pennsylvania; to acquire 100 percent of the voting shares of Jefferson Bank of New Jersey, Mount Laurel, New Jersey, a *de novo* bank. Comments of this application must be received by March 9, 1988.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens Bancshares of Beebe, Inc.,* Beebe, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Citizens Bank, Beebe, Arkansas.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice Presdident) 101 Market Street, San Francisco, California 94105:

1. *W.T.B. Financial Corporation,* Spokane, Washington; to acquire an additional 4.6 percent of the voting shares of Norbank Financial Group, Inc., Coeur d'Alene, Idaho, and thereby indirectly acquiring Northern State Bank, Coeur d'Alene, Idaho, and Seaport Citizens Bank, Lewiston, Idaho.

Board of Governors of the Federal Reserve System, February 10, 1988.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 88-3267 Filed 2-16-88; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

## Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait

designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN JANUARY 26, 1988 and February 15, 1988

| Name of acquiring person, name of acquired person, name of acquired entity | PMN number | Date terminated |
|---|---|---|
| 1. Zapata Corporation, United Technologies Corporation, UT Fin. Serv. Corporation and UT Leasing Corporation | 88-0626 | 01/26/88 |
| 2. General Accident Fire & Life Assurance Corp., p.l.c., United Fire and Casualty Company, United Fire & Casualty Company | 88-0705 | 01/26/88 |
| 3. Emhard Corporation, Stanadyne, Inc., Stanadyne, Inc | 88-0751 | 01/26/88 |
| 4. Koch Industries, Inc., Santa Fe Southern Pacific Corporation, Gulf Central Pipeline Company | 88-0779 | 01/26/88 |
| 5. Continental Information Systems Corporation, Household International, Inc., Fifteenth HFC Leasing Corporation | 88-0780 | 01/26/88 |
| 6. The Times Mirror Company, Dow Jones & Company, Inc., Richard D. Irwin, Inc | 88-0716 | 01/27/88 |
| 7. R.T Holdings S.A., Theresa and Philip Gai, Gai's Seattle French Baking Company | 88-0720 | 01/27/88 |
| 8. United Newspapers Public Limited Company, David Thalheim, Thalheim Expositions, Inc | 88-0736 | 01/27/88 |
| 9. United Newspapers Public Limited Company, Jay and Beth Thalheim, J.B. Consultants, Inc. and Thalheim Trade Show, Inc | 88-0737 | 01/27/88 |
| 10. Voting Trust of the Providence Journal Company, Dee Wetmore, Westside Communications of Tampa, Inc | 88-0776 | 01/27/88 |
| 11. Chevron Corporation, Kaiser Steel Corporation, Kaiser Coal Corporation | 88-0788 | 01/27/88 |
| 12. Mr. Lewis B. Cullman, Gefinor S.A., Sheaffer Eaton, Inc | 88-0796 | 01/27/88 |
| 13. Mutual Qualified Income Fund Inc., Mutual Shares Corporation and Mutual Beacon Fund, Inc., Mutual Shares Corporation and Mutual Beacon Fund, Inc | 88-0803 | 01/27/88 |
| 14. Mutual Share Corporation, Mutual Qualified Income Fund Inc. & Mutual Beacon Fund, Mutual Qualified Income Fund Inc. & Mutual Beacon Fund | 88-0804 | 01/27/88 |
| 15. Mutual Beacon Fund, Inc., Mutual Qualified Income Fund Inc. & Mutual Shares Corp., Mutual Qualified Income Fund Inc. & Mutual Shares Corp | 88-0805 | 01/27/88 |
| 16. Donald J. Trump, Federated Department Stores, Inc., Federated Department Stores, Inc | 88-0662 | 01/28/88 |
| 17. George Banta Company, Inc., Mr. Frank Beddor, Jr. and Mrs. Marilyn Beddor, The Beddor Companies | 88-0699 | 01/28/88 |
| 18. Cargill, Incorporated, Fred W. Cormell, Milton Manufacturing Company | 88-0707 | 01/28/88 |
| 19. Cargill, Incorporated, Peter H. Davidson, Milton Manufacturing Company | 88-0711 | 01/28/88 |
| 20. PepsiCo. Inc., Richard L. Gooding, Pepsi-Cola Bottling Company of Denver; Pepsi-Cola | 88-0715 | 01/28/88 |
| 21. Ronald O. Perelman, Compact Video, Inc., Compact Video, Inc | 88-0719 | 01/28/88 |
| 22. ERLY Industries Inc., Successor American Rice, Inc., Successor American Rice, Inc | 88-0725 | 01/28/88 |
| 23. American Rice, Inc., Successor American Rice, Inc., Successor American Rice, Inc | 88-0726 | 01/28/88 |
| 24. Wihuri Oy, David E. Johnson, Flex-On Inc | 88-0754 | 01/28/88 |
| 25. Wihuri Oy, Ollie B. Wilson, Jr., Flex-On, Inc | 88-0755 | 01/28/88 |
| 26. R.P. Scherer Corporation, Paco Pharmaceutical Services, Inc., Paco Pharmaceutical Services, Inc | 88-0767 | 01/28/88 |
| 27. Norwest Corporation, Atlantic Financial Federal, Atlantic Financial Federal | 88-0777 | 01/28/88 |
| 28. The Limited, Inc., Oshman's Sporting Goods, Inc., Oshman's Sporting Goods, Inc | 88-0781 | 01/28/88 |
| 29. Financial Holding Corporation, PHLCORP, Inc., College Group, Inc | 88-0797 | 01/28/88 |
| 30. Richard H. Krock, NorthEastern Mortgage Company, Inc., NorthEastern Mortgage Company, Inc | 88-0802 | 01/28/88 |
| 31. American Express Company, Loews Corporation, Lorillard, Inc | 88-0683 | 01/29/88 |
| 32. TIE/communications, Inc., ABI American Bussinessphones, Inc., ABI American Bussinessphones, Inc | 88-0692 | 01/29/88 |
| 33. E-II Holdings Inc., Michael C. Cameron and Karen P. Cameron, husband & wife., Southern Bakeries, Inc | 88-0693 | 01/29/88 |
| 34. Hilton Hotels Corporation, The Prudential Insurance Company of America, real estate owned by Prudential | 88-0742 | 01/29/88 |
| 35. Applied Power, Inc., William E. Gardner, Gardner Bender, Inc | 88-0746 | 01/29/88 |
| 36. Charles H. Dyson and Margaret M. Dyson, Frank Darlington and Richard D. Steele, Consolidated Group, Inc | 88-0773 | 01/29/88 |
| 37. Sara Lee Corporation, Stedman Holding Inc., Stedman Holding Inc | 88-0790 | 01/29/88 |
| 38. Stephen Adams, Gary T. Priestap, S E M Newspapers, Inc | 88-0790 | 01/29/88 |
| 39. Culbro Corporation, William J. Spiegel, Gilbreth International Corporation | 88-0795 | 01/01/88 |
| 40. Yuba Natural Resources, Inc., Mr. Alan Bond, Placer Service Corp | 88-0813 | 02/01/88 |
| 41. RJR Nabisco, Inc., W. Galen Weston, W. Galen Weston | 88-0749 | 02/03/88 |
| 42. Kenneth R. Thomson, Sheshunoff & Co., Inc., Information Services Division | 88-0762 | 02/03/88 |
| 43. Howard Kaskel, Kansas City Southern Industries, Inc., Kansas City Southern Industries, Inc | 88-0764 | 02/03/88 |
| 44. John J. Rigas, HHC Holding Inc., UltraCom, Inc | 88-0794 | 02/03/88 |
| 45. Integrated Resources, Inc., Security Pacific Corporation, Financial Clearing and Services Corporation | 88-0818 | 02/03/88 |
| 46. John J. Rigas, Mountain Cable Communications Corporation, Mountain Cable Company L.P | 88-0756 | 02/04/88 |
| 47. Medical Care International, Inc., AlternaCare Corp., AlternaCare Corp | 88-0772 | 02/04/88 |
| 48. Simon Engineering P.L.C. George E. Maas, Telelect, Inc | 88-0799 | 02/04/88 |
| 49. Health Management Associates, Inc., National Medical Enterprises, Inc., NME Hospitals, Inc | 88-0807 | 02/04/88 |
| 50. Cyrus Tang, James Pielet, Pielet Bros., Scrap Iron & Metal, Inc | 88-0819 | 02/04/88 |
| 51. Pfizer Inc., Cooper LaserSonics, Inc. Cooper LaserSonics, Inc | 88-0827 | 02/04/88 |
| 52. Thomson McKinnon Inc., Carolina Securities Corporation, Carolina Securities Corporation | 88-0838 | 02/04/88 |
| 53. Francesco Galesi, Teltec Saving Communications Company, Teltec Saving Communications Company | 88-0696 | 02/05/88 |
| 54. Figgie International Inc., William J. Pavey, Trustee for Lillian/William Trusts, Economy Engineering Company | 88-0747 | 02/05/88 |
| 55. Louis V. Manzo, c/o F.A. Davis and Sons, Inc., North Avenue Beauty Supply, Inc., North Avenue Beauty Supply, Inc | 88-0847 | 02/05/88 |
| 56. Stephen Adams, Forward Communications Corporation, Forward Communications Corporation | 88-0854 | 02/05/88 |
| 57. Trump Capital Corporation, Perry Drug Stores, Inc., Auto Works, Inc. and FAS Auto Works, Inc | 88-0868 | 02/05/88 |
| 58. Walter Lawrence P.L.C., Louis and Marion Berkowitz, L.B. Development Corp | 88-0869 | 02/05/88 |
| 59. Walter Lawrence P.L.C., Robert and Stephenie Miller, Rolemi, Inc | 88-0870 | 02/05/88 |
| 60. Oppenheimer & Co., L.P., L.F. Rothschild Holdings, Inc., L.F. Rothschild & Co., Incorporated | 88-0882 | 02/05/88 |

**FOR FURTHER INFORMATION CONTACT:** Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 326-3100.

By director of the Commission.
Benjamin I. Berman,
*Secretary.*
[FR Doc. 88-3273 Filed 2-16-88; 8:45 am]
BILLING CODE 6750-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Office of the Assistant Secretary for Personnel Administration; Statement of Organization, Functions, and Delegations of Authority

Part A (Office of the Secretary) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (DHHS) is amended to reflect a realignment of functions in the Office of the Assistant Secretary for Personnel Administration. These changes consolidate all personnel and payroll systems and support functions within the Office of Human Resource Information Management; streamline and integrate Departmental and local personnel servicing functions in a new Office of Personnel Services; and establish a focus for human resources management improvement activities within the Office of Special Initiatives.

Specifically, Chapter AH, Office of the Assistant Secretary for Personnel Administration, as last published at 50 FR 20850, May 20, 1985, is revised as follows:

1. In Chapter AH, Section AH.10 Organization, change "Office of Personnel Operations" to "Office of Personnel Services".

2. In Chapter AH, Section AH.20 Functions, paragraph B "The Office of Human Resource Information Management", delete entire paragraph and insert new paragraph B to read as follows:

B. The Office of Human Resource Information Management (OHRIM). Responsible for: maintenance and enhancement of the existing personnel/payroll system; the design, development, and implementation of new automated systems necesssary to support Departmental human resource information and personnel/payroll needs; administering the Department's centralized payroll system, including the payroll accounting function; serving as the Departmental data administrator for human resource information; identification and analysis of Departmental human resource data; establishing policy for retention and access to resource data; and liaison with both internal and external sources for human resource information systems.

3. Chapter AH, Section AH.20 Functions, paragraph B.2 "Program Management and Reports Staff" is retitled "Program Management Staff".

4. Chapter AH, Section AH.20 Functions, paragraph B.6 "Commissioned Officer Systems Division" is retitled "Commissioned Officer and Field System Division".

5. In Chapter AH, Section AH.20 Functions, add new paragraph B.8 "Personnel and Pay Systems Division", to read as follows:

8. Personnel and Pay Systems Division. Administers the Department's centralized payroll system, responsible for the propriety of civilian payroll records for approximately 140,000 employees assigned to some 800 regional and field offices in all 50 states. Schedules, produces, and distributes recurring and one time reports relating to the payroll; processes civilian personnel/payrolll and payroll accounting computer files, resulting in payrollling of all employees; maintains automated personnel files and updates the files for the Department's automated payroll accounting system; develops new systems changes required for personnel and payroll production; reviews test results to assure correct operation of new systems and changes. Manages and conducts payroll accounting, reconciliation and pay adjustments processing; produces accounting reports; and carries out the Department's debt collection program. Processes all actions relative to separated employees, including retirement and other separation actions; maintains retirement records; processes death benefit claims. Audits leave accounts and processes unemployment compensation actions. Performs the quality control function for all areas of payroll processing.

6. In Chapter AH, Section AH.20 Functions, add new paragraph B.9 "Technical Services Center", to read as follows:

9. Technical Services Center. Provides direction, technical assistance, standard operating procedures, manuals and training to persons who are users or customers of the personnel and payroll computer systems in use Department-wide. Diagnoses problems encountered in the processing of personnel and payroll transactions. Prepares management reports on personnel and payroll caseloads, error rates, unit costs, production interruptions, etc. Devises solutions to systemic problems and inefficiencies by modifying operating procedures, by requesting specific design and programming changes to the automated systems, or by other means. Contributes to the development of user requirements for system changes by evaluating the impact of proposed changes on systems' users and customers. Maintains up-to-date instructions and manuals for TDCS operators, timekeepers, designated agents, payroll liaison persons and other persons who input data or who use output from the personnel and payroll systems.

7. In Chapter AH, Section AH.20 Functions, delete paragraphs C and C.1 through C.5 in their entirety and insert new paragraph C "Office of Personnel Services"; C1 "Personnel and Information Security Group"; C.2 "Executive Services Support Division"; C.3 "Organization and Employee Development Division"; and C.4 "Personnel Operations Division", to read as follows:

C. The Office of Personnel Services. Directs and manages the personnel operations and services which are performed centrally at the Department level and those which are performed at the Operating Division level for the Office of the Secretary, the Office of Human Development Services, and the Family Support Administration. Formulates and oversees the implementation of Department-wide policies, regulations, and procedures concerning the Committee Management program, the Senior Executive Service program, and Schedule C and other executive personnel activities. Administers the Departmental incentive awards and employee counseling service programs. Responsible for the functional management of training and development in the Department. Manages the HHS personnel and information security programs. Serves as HHS liaison to central management agencies for all programs and activities within the Office's functional jurisdiction. Provides the full range of operations personnel services for the Office of the Secretary, Office of Human Development Services, and Family Support Administration headquarters, as well as for selected field positions in the Office of the Inspector General.

1. Personnel and Information Security Group. Responsible for establishing and maintaining a Department-wide personnel security program in accordance with the provisions of Executive Order (E.O.) 10450, Security Requirements for Government Employment and U.S. Office of Personnel Management Federal Personnel Manual Basic Installment 311. Responsible for establishing and maintaining a Department-wide

Information Security Program in accordance with the provisions of E.O. 12356, National Security Information and the General Services Administration Information Security Oversight Office Director Number 1, National Security Information. Formulates and oversees the implementation of Department-wide policies, regulations, and procedures governing the establishment and maintennce of an effective program to insure that the employment and retention in employment of any Department officer or employee is clearly consistent with the efficiency of the service and the interests of the national security. Initiates requests to and receives completed reports of personnel security investigations from the U.S. OPM; reviews and evaluates the results of reports of investigation for any unfavorable information that could have an adverse impact on the efficiency of the service and/or risks to the national security; authorizes employees to occupy certain sensitive positions based upon establishment guidelines; grants access to classified (national security) information based upon an identifiable need; maintains records relating to personnel suitability and security matters, levels of position sensitivity and access to classified information, and personnel security forms furnished by employees, and maintains liaison with HHS personnel security officials and officials in other Federal agencies on matters relating to the Department's personnel security program. Formulates and oversees the implementation of Department-wide policies, regulations, and procedures relating to the safeguarding, classification, declassification, accountability, control, reproduction, storage, transmission, and destruction of classified information; establishment of an effective security education program; conduct of security evaluations, inspections and reviews to ascertain the effectiveness of the Department's program, and maintains liaison with certain Department officials and other Federal agencies on matters relating to the overall Information Security Program.

2. Executive Services Support Division. Formulates and oversees the implementation of Department-wide policies, regulations, and procedures governing the establishment, management, continuation or termination of all HHS Federal advisory committees and the appointment of members thereto; provides expert technical advise and assistance to OPDIV, STAFFDIV, agency and bureau Committee Management Officers and program staff on all facets of committee management activities, insures compliance with laws, regulations and procedures governing committee management and serves as liaison with other Federal agencies, the Congress or other outside organizations on advisory committee matters. Formulates and oversees the implementation of Department-wide policies, regulations and procedures concerning all aspects of Senior Executive Service, and SES equivalent recruitment, staffing, position establishment, compensation, award, performance management and other related personnel areas. Provides full range of service on these same areas as well as provides policy formulation and procedures development specifically in support of SES and SES equivalent needs in the Office of the Secretary, the Office of Human Development Services and the Family Support Administration. Oversees and facilities implementation of HHS-wide policies, regulations and procedures relating to Schedule C and other executive personnel activity. For all areas of responsibility, serves as liaison with central management agencies (OPM, GAO). Provides technical advise and assistance on policy, legal and regulatory matters. Is the focal point for data, reports, and analyses relating to SES, SES equivalent and Schedule C and other executive personnel, such as those in Executive Level positions. Administers the Department awards program, including coordination of nominations for honor awards, serving as Executive Secretary to the Department Awards Board, and managing the suggestion program.

3. Organization and Employee Development Division. Responsible for the functional management of training and development in the Department, including policy development and guidance and technical assistance and evaluation of all aspects of career, employee, supervisory, management, executive, and organization development. Administers Department-wide training and development programs, including the Secretary's Executive Forum, the Presidential Management Intern Program, the Women's Management Training Initiative, Department level training for members of the SES, the Cooperative Education Program and the SES Candidate Development Program. Provides OPDIV level training management support for the Office of the Secretary, the Office of Human Development Services, and the Family Support Administration. Operates the Southwest Training Center, offering common needs training to employees based in Southwest Washington, DC Provides consulting services to HHS managers to promote organization development and productivity improvement efforts. Responsible for the functional management of the Department's Employee Counseling Services (ECS) program. Provides leadership and direction to OPDIV and regional staffs in the development and maintenance of ECS programs, and develops Department-wide policies and procedures for ECS program operation. Serves as HHS liaison to central management agencies on training and development and ECS programs and activities.

4. Personnel Operations Division. Provides secondary personnel policy for the Office of the Secretary, the Office of Human Development Services, and the Family Support Administration. Also provides to managers in those organizations advice and assistance in their personnel management activities including workforce planning, recruitment, selection, position management, performance management, incentive awards, employee relations and labor management relations. Provides a variety of services to employees in those organizations, including provision of employee counseling services; and career, retirement and benefits counseling. Provides personnel administrative services for selected components of the Office of the Secretary, the Office of Human Development Services, and the Family Support Administration, as well as for selected staff of the Office of the Inspector General in the field. Personnel administrative services include the exercise of appointing authority, position classification, awards authorization, and personnel action processing and recordkeeping.

8. In Chapter AH, Section AH.20 Functions, delete paragraph F, "The Office of Special Initiatives" in its entirety and replace with new paragraphs F, F.1, and F.2 to read as follows:

F. The Office of Special Initiatives. Provides leadership and direction to research and demonstration projects and programs falling within the ASPER's functional scope. Provides resource management and administrative support services to the ASPER. Assists the Assistant Secretary in the formulation of plans and objectives and the control and evaluation of ASPER's organizational performance at the Headquarters and in the field. Responsible for the functional management of the Department's regional personnel offices.

1. Resource Management Staff. Provides resource management services to the ASPER in all budgetary, financial, and ceiling control matters to ensure the most effective use of OS headquarters and field personnel administration resources. Also provides the full range of administrative support services to ASPER, including such areas as procurement, property management, space allocation, internal controls, and organizational staffing.

2. Center for Management Excellence. Within the framework of the Department's productivity improvement program, provides leadership and direction to agency and interagency research efforts, demonstration projects, and special programs, testing innovative approaches to improving human resource management. Conducts statistical analyses of factors affecting workforce productivity and utilization, and applies the results of such analyses in the design and development of experimental programs. Synthesizes current management theories and private sector methodologies for adaptation to Federal applications. Monitors developments in such areas as gainsharing, employee benefits, organizational performance, and employee health and wellness to ensure effective coordination of cross-cutting initiatives.

Date: February 8, 1988.

**Elizabeth M. James,**

*Acting Assistant Secretary for Management and Budget.*

[FR Doc. 88-3325 Filed 2-16-88; 8:45 am]

BILLING CODE 4150-04-M

## Centers for Disease Control

### Vessel Sanitation Program Advisory Committee; Establishment

**ACTION:** Notice of Establishment — Vessel Sanitation Program Advisory Committee.

Pursuant to Federal Advisory Committee Act, 5 U.S.C. Appendix 2, the Centers for Disease Control announces the establishment by the Secretary of Health and Human Services, on January 22, 1988, of the following Federal advisory committee:

Designation: Vessel Sanitation Program Advisory Committee.

Purpose: This Committee will provide advice and guidance to the Secretary, the Assistant Secretary for Health, and the Director, Centers for Disease Control, concerning the scientific merit and direction of the Vessel Sanitation Program, application of appropriate standards of sanitation aboard cruise ships, equal application of standards to all vessels inspected, analysis of the results of sanitation inspections, and procedures for public notification of inspection results in a fair and equitable manner consistent with the efforts to maintain a level of sanitation that will lower the risk of gastrointestinal disease outbreaks and provide a healthful environment on board passenger vessels.

Authority for this Committee will expire January 22, 1990, unless the Secretary of Health and Human Services, with the concurrence of the Committee Management Secretariat, General Services Administration, formally determines that continuance is in the public interest.

Dated: February 8, 1988.

**Elvin Hilyer,**

*Associate Director for Policy Coordination, Centers for Disease Control.*

[FR Doc. 88-3264 Filed 2-6-88; 8:45 am]

BILLING CODE 4160-18-M

## Food and Drug Administration

### Altana, Inc.; Withdrawal of Approval of NADA

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Altana, Inc. The NADA Provides for the use of neomycin sulfacetamide with hydrocortisone veterinary ophthalmic ointment in the eyes of dogs and cats. The firm requested the withdrawal of approval.

**EFFECTIVE DATE:** February 29, 1988.

**FOR FURTHER INFORMATION CONTACT:** Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

**SUPPLEMENTARY INFORMATION:** Altana, Inc. (formerly Byk-Gulden, Inc.), 60 Baylis Rd., Melville, NY 11747, is the sponsor of NADA 47-090 which provides for the use of neomycin sulfacetamide with hydrocortisone veterinary ophthalmic ointment in superficial ocular inflammations or infections limited to the conjunctival or the anterior segment of the eye of dogs and cats. The NADA was approved December 16, 1977 (42 FR 63388). By letter of October 5, 1987, the sponsor requested withdrawal of approval because the product is no longer being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 47-090 and all supplements thereto is hereby withdrawn, effective February 29, 1988.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is removing 21 CFR 524.1484h which reflects this approval.

Dated: February 10, 1988.

**Richard H. Teske,**

*Deputy Director, Center for Veterinary Medicine.*

[FR Doc. 88-3329 Filed 2-16-88; 8:45 am]

BILLING CODE 4160-01-M

**[Docket No. 87N-0370]**

### Biological Product License; Plasma, Inc.; Revocation of U.S. License No. 1006

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 1006) and the product license issued to Plasma, Inc., for the manufacture of Source Plasma. In letters dated July 31 and September 30, 1987, the firm requested that its establishment and product licenses be revoked and waived an opportunity for a hearing.

**DATE:** The revocation of the establishment and product licenses was effective on October 6, 1987.

**FOR FURTHER INFORMATION CONTACT:** Adele S.Seifried, Center for Biologics Evaluation and Research (HFN-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

**SUPPLEMENTARY INFORMATION:** FDA has revoked the establishment license (U.S. License No. 1006) and product license issued to Plasma, Inc., for the manufacture of Source Plasma. Plasma, Inc. was located at 111 Stanley St., Monroe, LA 71203.

On January 27, and February 2 and 3, 1987, FDA inspected Plasma, Inc. doing business as Eastgate Plasma Center. This inspection, as well as a followup investigation, revealed numerous deviations from the applicable biologics

regulations, and the standards specified in the firm's establishment license and product license. These deviations included, but were not limited to, the following: (1) Donors with hematocrit values below the minimum acceptable level of 38 were accepted for donation and their hematocrit values were recorded as 38 (21 CFR 640.63)(c)(3)); (2) records of whole blood weights did not always reflect the actual weight of the blood because units were not always weighed or the weights were not recorded accurately (21 CFR 606.160(a)(1)); (3) the record of the manual check of the freezer temperature for Source Plasma indicated that temperatures were checked daily when, according to a former employee, the temperature was not routinely checked (21 CFR 606.160(b)(3)(iii)); (4) donors who appeared to screening personnel to be under the influence of alcohol were accepted for donation (21 CFR 640.63(d)); and (5) on the specific instructions of management a donor identification system that positively identifies each donor was not always employed (21 CFR 640.65(b)(3)).

In addition to these deficiencies, FDA's investigation revealed that the firm's responsible head failed to exercise control of the establishment in all matters relating to compliance with the regulations. The responsible head stated that she was, at one point, demoted to donor processing duties; was overruled regarding her decisions relating to donor suitability determinations, and that she signed documents certifying that plasma units were free of hepatitis B surface antigen (HBsAg) and antibody to the human immunodeficiency virus (HIV) without having access to records showing the results of these tests.

FDA's investigation indicated that these violations were not isolated instances and that they represented serious noncompliance with those standards designed to assure the safety, purity, identity, and quality of plasma as well as the standards for donor protection which are intended to assure a continuous and healthy donor population. Because these serious and willful deviations represented a significant danger to health, FDA suspended the establishment license (U.S. License No. 1006) on July 13, 1987, and also set forth the grounds for revocation pursuant to 21 CFR 601.6(b). In letters dated July 31 and September 30, 1987, Plasma, Inc., requested that its establishment and product licenses be revoked, thereby waiving an opportunity for a hearing. The agency granted the licensee's request by letter to the firm dated October 6, 1987, issued under 21 CFR 601.5(a), which revoked the establishment license (U.S. License No. 1006), and the product license of Plasma, Inc., FDA has placed copies of the letters dated July 13, July 31, September 30, and October 6, 1987, on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Accordingly, under 21 CFR 12.38 and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Office of Biologics Research and Review (21 CFR 5.68), the establishment license (U.S. License No. 1006) and product license issued to Plasma, Inc., for the manufacture of Source Plasma was revoked effective October 6, 1987.

This notice is issued and published under 21 CFR 601.8 and the redelegation at 21 CFR 5.67.

Dated: February 4, 1988

**Paul D. Parkman,**

*Director, Center for Biologics Evaluation and Research.*

[FR Doc. 88-3254 Filed 2-16-88; 8:45 am]

BILLING CODE 4160-01-M

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**[Docket No. 82D-0322]**

## Monitoring of Clinical Investigations; Availability of Guideline

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) announces the availability of a guideline entitled "Guideline for the Monitoring of Clinical Investigations." The guideline describes approaches acceptable to FDA for monitoring clinical investigations involving any FDA-regulated product—human drugs, biological products for human use, medical devices for human use, food additives, color additives, and veterinary drugs. The guideline is intended to facilitate compliance with the requirement for sponsors to monitor the progress of a clinical investigation. Proper monitoring of a clinical investigation is necessary to assure protection of the rights of human subjects involved in the investigation, the safety of all subjects involved, and the quality and integrity of the resulting data submitted to FDA.

**ADDRESSES:** Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of the guideline can be obtained from the Bioresearch Program Coordinator (HFC-230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Marilyn L. Watson, Center for Drug Evaluation and Research (HFN-360), Food and Drug Adminstration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8038.

**SUPPLEMENTARY INFORMATION:** FDA is making available to interested persons a guideline that presents acceptable approaches to monitoring clincial investigations. The guideline is intended to inform sponsors of clinical investigations of practices which, in the opinion of the agency, constitute an acceptable means of complying with the requirement that a sponsor monitor the progress of a clinical investigation.

FDA's regulations governing clinical investigations involving new drugs and biological products for human use (21 CFR Part 312), new drugs for animal use (21 CFR Part 511), medical devices (21 CFR Part 812), and intraocular lenses (21 CFR Part 813) require that a sponsor of any such investigation monitor the progress of the investigation. The monitoring function may be performed by the sponsor or its own employees or may be delegated to a contract research organization.

The agency considers proper monitoring of a clinical investigation necessary to assure adequate protection of the rights of human subjects involved in the investigation, the safety of all subjects involved, and the quality and integrity of the resulting data submitted to FDA. To achieve these goals, the guideline that has been developed includes the following monitoring elements: (1) Selection by a sponsor of individuals as monitors who have appropriate training and expertise to assure competent monitoring of a study; (2) a preinvestigation visit to an investigator to assure that the investigator clearly understands and accepts the obligations incurred in undertaking a clinical investigation and that the proposed facilities to be used in conducting the study are adequate; (3) periodic visits to the investigator throughout the clinical investigation to assure that the investigator continues to fulfill his or her obligations in conducting a study, that proper records are maintained and are accurate, that reports are submitted to the sponsor and institutional review board where required, and that the facilities used by the investigator continue to be acceptable for purposes of the study;

and (4) the maintenance of records of visits to the investigator including the findings, conclusions, and actions taken to correct deficiencies.

The guideline entitled "Guideline for the Monitoring of Clinical Investigations" is being made available under § 10.90(b) of FDA's administrative practices and procedures regulations (21 CFR 10.90(b)). Section 10.90(b) provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to FDA. As provided in § 10.90(b)(1)(i), sponsors who follow the guideline may be assured that it represents monitoring procedures acceptable to the agency. If a sponsor believes that alternative procedures may also suffice, the guideline does not preclude a sponsor from pursuing alternative procedures. Thus, sponsors are permitted flexibility to enable them to alter their monitoring procedures for a particular study, if necessary, while still complying with the intent of FDA's regualtions, i.e., to assure the protection of the rights of human subjects and the safety of all subjects and the quality and integrity of the test data. A sponsor who elects to use alternative procedures for monitoring a clinical investigation may, but is not required to, submit those procedures to FDA for review and comment to avoid the possibility of employing monitoring procedures that FDA might later determine to be inadequate to assure the protection of the rights of human subjects and the safety of all subjects involved or the quality and integrity of the data resulting from a clinical investigation. Sponsors wishing to obtain such a review should contact the Bioresearch Program Coordinator (address above).

Copies of the guideline can be obtained from the Bioresearch Program Coordinator (HFC-230), address above. A single copy of the guideline is on file with the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this document and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may, at any time, submit to the Dockets Management Branch written comments regarding the guideline. Such comments will be considered in determining whether amendments to or revisions of the guideline are warranted. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 21, 1988.

**Frank E. Young,**

*Commissioner of Food and Drugs.*

[FR Doc. 88-3253 Filed 2-16-88; 8:45 am]

BILLING CODE 4160-01-M

## Advisory Committees; Meetings

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

*Meetings:* The following advisory committee meetings are announced:

### Cardiovascular and Renal Drugs Advisory Committee

*Date, time, and place.* March 3 and 4, 1988, 9 a.m., National Institutes of Health, Jack Masur Auditorium, Bldg. 10, 9000 Rockville Pike, Bethesda, MD.

*Type of meeting and contact person.* Open public hearing, March 3, 1988, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; March 4, 1988, open committee discussion, 9 a.m. to 5 p.m.; Joan C. Standaert, Center for Drug Evaluation and Research (HFN-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730 or 419-529-6211.

*General function of the committee.* The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cardiovascular disorders and diseases.

*Agenda—Open public hearing.* Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should notify the committee contact person.

*Open committee discussion.* The committee will discuss (NDA 18-981/S-001) enkaid (encainide HCl), Bristol Myers Pharmaceuticals for treatment of supraventricular tachyarrhythmia; (NDA 12-093/S-26) and (NDA 19-517) isordil (isosorbide dinitrate), oral and parenteral, Wyeth Laboratories, for treatment of congestive heart failure, and guidelines for the study of anti-anginal agents.

### Obsterics-Gynecology Devices Panel

*Date, time, and place.* March 29, 1988, 9 a.m., Rm. 503A-529A, Hubert H. Humphrey Bldg., 200 Independence Ave SW., Washington, DC.

*Type of meeting and contact person.* Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Colin M. Pollard, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

*General function of the committee.* The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

*Agenda—Open public hearing.* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the committee contact person before March 11, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

*Open committee discussion.* The Panel will discuss a premarket approval application for a contraceptive tubal occlusion device and provide FDA with its recommendation.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: February 9, 1988.

**George R. White,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 88-3327 Filed 2-16-88; 8:45 am]

BILLING CODE 4160-01-M

## Health Resources and Services Administration

### National Advisory Council on the National Health Services Corps; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1988:

*Name:* National Advisory Council on the National Health Service Corps

*Date and Time:* March 7-9, 1988, 8:30 a.m.

*Place:* Holiday Inn, 2915 W. Highway 66, Gallup, New Mexico 87301, Visits will be made to Indian Health Service sites in the area on March 8, leaving the Hotel at 8:00 a.m. No transportation will be provided for visitors and observers.

*Purpose:* The Council will advise and make appropriate recommendations on the National Health Services Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provision of the legislation.

*Agenda:* The agenda will include a discussion of Indian Health Service activities, overall NHSC policies, budget and other topics at the pleasure of the Council.

Anyone requiring information regarding the subject Council should contact Anna Mae Voigt, National Advisory Council on the National Health Service Corps, Room 7A-23, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-4814.

Agenda Items are subject to change as priorities dictate.

Dated: February 11, 1988.

**Jackie E. Baum,**

*Advisory Committee Management Officer, HRSA.*

[FR Doc. 88-3326 Filed 2-16-88; 8:45 am]

BILLING CODE 4160-15-M

## National Institutes of Health

### National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on March 1-2, 1988, from 8:30 a.m. to approximately 5 p.m. at the Hyatt Regency Crystal City, Washington National Airport, 2799 Jefferson Davis Highway, Arlington, Virginia 22209. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range digestive diseases plan. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Digestive Diseases Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496-6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: February 9, 1988.

**Betty J. Beveridge,**

*NIH Committee Management Officer.*

[FR Doc. 88-3354 Filed 2-16-88; 8:30 am]

BILLING CODE 4140-01-M

### National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Diabetes Advisory Board on March 27-28, 1988, from 8:30 a.m. until approximately 5 p.m. each day at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia 22032. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range plan to combat diabetes mellitus. Although the entire meeting will be open to the public, attendance will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

For any further information, please contact Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496-6045. His office will provide, for example, a membership roster of the Board and an agenda and summaries of the actual meetings.

Dated: February 9, 1988.
Betty J. Beveridge,
*NIH Committee Management Officer.*
[FR Doc. 88-3355 Filed 2-16-88; 8:45 am]
BILLING CODE 4140-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[ES-030-08-4212-14; ES-00157-0111]**

### Realty Action; Sale of Public Land in St. Louis County, MN; Correction

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Sale of public land, correction.

**SUMMARY:** This notice corrects the name of the persons being offered the direct sale of the tract of land as published in the Federal Register on December 24, 1987, Volume 52, No. 247, page 48770. The name is Glen V. Shafer.

**FOR FURTHER INFORMATION CONTACT:** Milwaukee District Office, Suite 225, 310 W. Wisconsin Avenue, Milwaukee, Wisconsin 53203.

Bert Rodgers,
*District Manager.*
[FR Doc. 88-3250 Filed 2-16-88; 8:45 am]
BILLING CODE 4310-GJ-M

**[UT-040-4212-13]**

### Plan Amendment Decision Notice; Exchange of Public and Private Land, Washington and Kane Counties, UT

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Plan amendment decision notice Virgin River MFP (Washington County, Utah) and Vermilion MFP (Kane County, Utah) for land exchange.

**SUMMARY:** The Cedar City District of the Bureau of Land Management has finalized an amendment to the Virgin River Management Framework Plan and the Vermilion Management Framework Plan authorizing the exchange of BLM administered Federal lands (Virgin MFP) for private lands (Vermilion MFP). See notice of intent in November 19, 1987 Federal Register, page 44496.

The Virgin River MFP will be amended to allow for the disposal of about 681 acres of land previously identified for retention in portions of the following townships, T41S R15W (80 acres), T42S R10W (601 acres). Reserved to the United States are rights-of-way for ditches and canals. Use of these lands by the proponent include agriculture and reservoir construction.

The Vermilion MFP will be amended to indicate the desirability of acquisition of lands offered by the proponent and prescribe management objectives for lands acquired under the exchange. The lands to be acquired are located in T42S R9W comprising 1,108 acres. Management for these lands will include riparian management, recreation access, wildlife habitat management, and livestock grazing. These lands will be managed in such a manner as to not impair resource values in nearby Zion National Park and the Canaan Mountain wilderness study area (WSA).

**SUPPLEMENTARY INFORMATION:** A 30 day protest period will begin upon the date of publication of this notice. Protests may be made under provisions in 43 CFR 1610.5-2. A summary of these requirements follows: Protests must be in writing and must be filed with the Director of the Bureau of Land Management within 30 days of the date of this notice. The protest must contain the name and address of the protestor, his/her interests in the action being protested, a statement of issues being protested, an indication of which part of the amendment is being protested, a copy of the document addressing the issues submitted during the amendment review period, and a concise statement explaining why the State Directors decision is believed to be wrong.

**FOR FURTHER INFORMATION CONTACT:** Frank Rowley, Dixie Resource Area Manager at 225 North Bluff Street, P.O. Box 726, St. George, Utah 84770 or by calling (801) 673-4654.

Dated: February 10, 1988.
Kemp Conn,
*Acting State Director.*
[FR Doc. 88-3283 Filed 2-16-88; 8:45 am]
BILLING CODE 4310-10-DQ-M

**[UT-020-88-4212-14; U-54859, U-54861, U-54863]**

### Realty Action; Sale of Public Lands in Box Elder County, UT

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Realty action; sale of public lands.

**SUMMARY:** The following described land has been examined and identified as suitable for disposal under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value shown:

| Parcel number | Legal description | Acreage | Value | Preference right bidder |
|---|---|---|---|---|
| U-54859 | T. 12N., R. 4W., SLM, Section 6, Lots 2, 3, 10 | 49.50 | $3,700.00 | Ross Rudd. |
| U-54861 | T. 15N., R. 6W., SLM, Section 25, Lots 1-4 | 8.26 | $200.00 | LaVar Hansen. |
| U-54863 | T. 14N., R. 9W., SLM, Section 12, S½NE¼ | 80.00 | $6,000.00 | Wallace Hurd. |

The above described land will be sold in order to dispose of lands which because of location and other characteristics are difficult and uneconomical to manage. The sale is consistent with the Bureau's planning system and the public interest will be served by offering these lands for sale.

The lands described are hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action.

The above described land will be offered for sale on May 16, 1988, by sealed bid under modified competitive procedures. The preference right bidder listed above will have the opportunity to meet the highest bid submitted for the parcel as shown. All bids must be received by 10 a.m. on May 16, 1988, at the Bureau of Land Management (BLM) Salt Lake District Office at 2370 South 2300 West, Salt Lake City, Utah 84119. Bids will be opened and a high bidder declared at 11 a.m. on May 16, 1988. No bids will be accepted for less than the appraised fair market value shown above.

Under modified competitive sale procedures, an apparent high bid will be declared at public auction. The apparent high bidder and the preference right bidder will be notified. The preference right bidder shall have 10 days from the date of the sale to exercise the preference consideration given to meet the high bid. Should the preference right bidder fail to submit a bid that matches the apparent high bid within the specified time period, the apparent high bidder shall be declared high bidder.

Bids may be made by a principal or duly qualified agent. Qualified bidders include: Citizens of the United States 18 years of age or over; a corporation

subject to the laws of any state or of the United States; a state, instrumentality or political subdivision authorized to hold property; and any entities capable of holding lands or interests therein under the laws of the state within which the lands to be conveyed are located. Entities include, but are not limited to, associations, partnerships, and other legal entities.

Each bid shall be accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to the Department of the Interior, BLM, for not less than one-third of the amount bid and shall be enclosed in a sealed envelope clearly marked "Bid for Public Land, Tract Number U———" (tract numbers are shown above). If two or more bids for the same amount are received, the apparent high bidder shall be determined by supplemental biddings pursuant to 43 CFR 2711.3–1(c).

The terms and conditions applicable to the sale are:

1. The high bidder shall submit the remainder of the full bid amount within 180 days from date of sale. Failure to submit the full bid price prior to, but not including the 180th day following the sale, shall result in the disqualification of the bidder and the deposit shall be forfeited.

2. The authorized officer may reject the highest qualified bid and release the bidder from his obligation and withdraw the tract for sale, if he determines that consummation of the sale would be inconsistent with provisions of any existing law or collusive or other activities have hindered or restrained free and open bidding or consummation of the sale would encourage or promote speculation in public lands.

3. The patent will contain a reservation for ditches and canals and be subject to all valid existing rights.

4. All minerals will be reserved to the United States including the right of ingress or egress for mineral development.

5. The United States does not, by the terms of this sale, guarantee to any party physical or legal access to the tract of land being sold.

6. In the event that any of the lands offered for sale are not sold on the date of the sale, they shall continue to be offered for sale at the appraised fair market value on the third Wednesday of each succeeding month after that date until sold or until further notice. Any person wishing to purchase any of these lands after the initial date of sale must present his/her bid at the BLM office shown above accompanied by a certified check, postal money order, bank draft or cashier's check for not less than one-third of the amount bid. All applicable terms and conditions as listed above will continue to apply regardless of when the land is actually sold except there will be no preference right bidder privilege after the original date of sale.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, BLM, 2370 South 2300 West, Salt Lake City, Utah, 84119. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Date: February 4, 1988.

**Deane H. Zeller,**

*District Manager.*

[FR Doc. 88–3284 Filed 2–16–88; 8:45 am]

BILLING CODE 4310–DQ–M

## National Park Service

## Guidelines for Federal Agency Responsibilities, Under Section 110 of the National Historic Preservation Act

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of Final Guidelines.

**SUMMARY:** In accordance with subsection 101(f) of the National Historic Preservation Act, the Secretary of the Interior, in consultation with the Advisory Council on Historic Preservation, has developed the following guidelines for carrying out Federal agency responsibilities under section 110 of the Act. These guidelines were published for a 60-day comment period on March 10, 1986. Comments received during the comment period were reviewed and revisions have been made. Federal agencies should follow these guidelines in establishing, monitoring, reviewing and evaluating their programs for compliance with section 110 of the Act. State Historic Preservation Officers should refer to these guidelines when providing assistance to Federal agencies under Sections 101(b)(3)(E) and (F) of the Act. The Advisory Council on Historic Preservation will use these guidelines, as applicable, and recommend their use to Federal agencies, State Historic Preservation Officer, and others, in agreements executed pursuant to Section 106 of the Act and 36 CFR Part 800. The Council will also use these guidelines in its review of Federal agency programs under Section 202(a)(6) of the Act.

**DATE:** These Guidelines are effective February 17, 1988.

**FOR FURTHER INFORMATION CONTACT:** de Teel Patterson Tiller, Interagency Resources Division, National Park Service, United States Department of the Interior, P.O. Box 3127, Washington, DC 20013–7127.

The originator of these guidelines is Stephen M. Sheffield, United States Department of the Interior, in consultation with Thomas F. King, Advisory Council on Historic Preservation.

**SUPPLEMENTARY INFORMATION:** The National Park Service received 34 comments on the March 10, 1986, proposed Guidelines. Following review of these comments, the document was considerably revised and then circulated in April of 1987 to all State Historic Preservation Officers, Federal Preservation Officers, and all others who commented on the March 10 publication.

Although the basic approach of the guidelines as described in the Introduction (Part 1) has not changed, and most of the substantive guidance remains the same, the document has undergone a major reorganization. Also, in clarifying the information in the guidelines, it has been necessary to add considerably to the body of the document. Because of this considerable reorganization and clarification, the National Park Service interested parties in April. The Service received 33 comments on the April draft, most of which suggested only minor changes to the document. Necessary changes have been made, and the Service is satisfied that the guidelines are generally acceptable to Federal and State officials and other interested parties. The published final version does not differ significantly from the April draft.

The following is a general discussion of how this final version differs from the March 10 proposed guidelines.

The March 10 proposal was organized along the lines of the *Secretary's Standards and Guidelines for Archeology and Historic Preservation (Secretary's Standards),* using the broad activities of planning, identification, evaluation, registration, and treatment as an outline. This approach was chosen because of the strong relationship between the generic guidance presented in the *Secretary Standards* and the more specific Federal agency directed guidance in the *Section 110 Guidelines.* Although the *Secretary's Standards* continues to be an important back-up document to the *Section 110 Guidelines,* and Federal agencies need to refer to

both documents in carrying out their Section 110 responsibilities, many of those commenting, particularly Federal agencies, found the organization to be awkward, hard to follow, and difficult to relate to the requirements in section 110 itself. This appeared to be particularly problemmatic for smaller Federal agencies with limited responsibilities under section 110. In such cases, the agencies were aware of particular requirements in the law, but had difficulty finding guidance for them in the proposed document.

It was widely suggested that presentation of the guidelines in the order of the specific requirements in section 110 would facilitate their use. This has been done. Each subsection of section 110 is addressed individually. Further, categories of information are presented within the discussion of each subsection. First, under *Requirement,* the subsection is stated verbatim from the Act. A paragraph describing the types of Federal agencies to which the requirements applies is entitled *Applicability.* Next is a *Discussion* section with detailed advice to agencies on implementing the requirement. Each summary ends with a category on *Related Requirements and Guidance* in which are listed regulations, guidelines, technical assistance, and other publications which either directly or indirectly bear on the requirements in the subsection being summarized.

Many comments indicated concern that the March 10 document was not prescriptive enough in describing Federal agencies' responsibilities under Section 110 of the Act. Many commenters suggested that the Guidelines watered down the requirements of the Act by suggesting agency actions rather than requiring them. The National Park Service believes that these commenters are misinterpreting the authorization given to the Secretary in section 101(f) of the Act. Section 101(f) authorizes the Secretary of the Interior to issue guidance for section 110. It does not authorize the Secretary to regulate the implementation of section 110. The guidelines do repeat the requirements of section 110 and related authorities, such as sections 106 and 111, but their primary purpose is to provide recommendations and options for agencies to consider in implementing these requirements.

Many commenters suggested that the Guidelines blurred the distinction between the requirements in section 110 and the requirement in section 106 of the Act that agencies consider the effects of their actions on historic properties. References to section 106 where appropriate have been included in this final version of the Guidelines to clarify the relationship between the two sections.

In addition to the revisions discussed above, numerous minor revisions and additions have been made.

Issued by the Secretary of the Interior.

Date: November 25, 1987.

*Assistant Secretary, Fish and Wildlife and Parks.*

Adopted by the Advisory Council on Historic Preservation for use, as applicable, in agreements executed pursuant to section 106 of the Act and 36 CFR Part 800 and in Advisory Council reviews of Federal agency programs under Section 202(a)(6) of the Act.

Date: December 2, 1987.

**Cynthia Grassby Baker,**

*Chairman, Advisory Council on Historic Preservation.*

**Authority:** Section 101(f) of the National Historic Preservation Act, 16 U.S.C. 470a(f).

## The Section 110 Guidelines: Guidelines for Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act

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### Part I. Introduction

Subsection 101(f) of the National Historic Preservation Act of 1966, as amended, ("the Act") authorizes the Secretary of the Interior, in consultation with the Advisory Council on Historic Preservation, to promulgate guidelines for Federal agency responsibilities under section 110 of the Act. Section 110 prescribes general and specific responsibilities of Federal agencies in the identification, evaluation, registration, and protection of properties of historic, archeological, architectural, engineering, or cultural significance. *The Section 110 Guidelines: Guidelines for Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act (Section 110 Guidelines)* describe the qualities of an effective and efficient agency historic preservation program designed to ensure that the requirements of Section 110 are met. They assist agencies in carrying out their missions, programs, and projects in a manner consistent with the requirements and purposes of Section 110 of the Act, existing regulations, and the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (Secretary's Standards).* The *Secretary's Standards* were published in the **Federal Register** September 29, 1983; Vol. 48, No. 190, Part IV, pp. 44716–44740.

The intent of section 110 is to ensure that historic preservation is fully integrated into the ongoing programs and missions of Federal agencies. It is expected that agencies will review their operating policies and procedures, taking into account applicable sections of these guidelines, in order to ensure that such policies and procedures are consistent with the requirements of section 110. For agencies whose missions seldom bring them into contact with historic properties, use of these guidelines as the standard for historic resource management when such management is needed should be sufficient. For other agencies, such as those managing large tracts of land or administering programs that often affect historic properties, the guidelines can serve as a model for the development of historic preservation programs designed to serve particular agency needs. In either case, agencies should ensure that the qualities of effective preservation described in these guidelines are fully integrated into existing agency operations and management.

A Federal agency may request the Secretary to review its implementation of the provisions of section 110 by contacting the Chief, Interagency Resources Division, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127. The Advisory Council on Historic Preservation will use these guidelines

during its reviews of Federal agency programs conducted under the authority in Section 202(a)(6) of the Act.

The project and program standards and guidelines for implementing Section 110 are the *Secretary's Standards* (48 FR 44716), prepared pursuant to 101(h) of the Act. They are the Secretary's performance standards for carrying out historic preservation activities, such as planning, identification, evaluation, documentation, and preservation, and are applicable to all users, public and private. The *Section 110 Guidelines* are designed to assist agencies in using the *Secretary's Standards* and other pertinent guidance specific to historic preservation in the management programs they undertake pursuant to Section 110.

**Part II. Definitions**

*The Act* means the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

*Advisory Council* means the agency, fully titled the Advisory Council on Historic Preservation, established pursuant to Title II of the Act, that is to be afforded a reasonable opportunity under Sections 106 and 110(f) of the Act to comment with regard to proposed Federal, federally licensed, or federally assisted undertakings which may affect properties which are included in or eligible for inclusion in the National Register of Historic Places, and that reviews Federal programs pursuant to Section 202(a)(6) of the Act. Federal regulations, 36 CFR Part 800, "Protection of Historic Properties," outline the procedures for complying with the requirements of Section 106 of the Act.

*Agency Official* means the head of any Federal agency, or designee, reponsible for program activities to which Section 110 pertains.

*Federal Preservation Officer (FPO)* means the official, or designee, specifically responsible for coordinating an agency's activity under the Act.

*Historic Context* means an organization format that groups historic properties that share similarities of time, theme, and geography (e.g., early 20th century cattle ranching in the panhandle of Oklahoma). Historic contexts are linked to actual resources and are used by public and private agencies and organizations to develop management plans based upon actual resource needs and information.

*Historic property* or *historic resource* means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.

*Historic resource* (see definition for "historic property").

*Indian tribe* means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior for which the United States holds land in trust or restricted status for the entity or its members. Such term also includes any Native village corporation, regional corporation, and Native Group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 *et seq.*).

*Intensive survey* means a systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them against predetermined criteria of significance within specific historic contexts (from *Secretary's Standards*, 48 FR 44739).

*Management Inventory* means an organized compilation of information on properties that have been evaluated against the National Register criteria, including both historic and non-historic properties.

*Mitigation* means action to minimize, ameliorate, or compensate for the degradation and/or loss of those characteristics of a property that make it eligible for the National Register.

*National Historic Landmark (NHL)* means a district, site, building, structure or object that the Secretary of the Interior has determined possesses exceptional value in commemorating or illustrating the history of the United States and which has been so designated under the authority of the Historic Sites Act of 1935, 16 U.S.C. 461 *et seq.*

*National Register* means the list of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering, and culture maintained by the Secretary of the Interior and fully titled the "National Register of Historic Places."

*Professionals* means professional practitioners of various disciplines relevant to historic preservation. These include archeologists, historians, architectural historians, and historical architects meeting the training and experience criteria set forth in the *Secretary Standards* (48 FR 44739), and landscape architectural historians, historical landscape architects, preservationists, planners, anthropologists, folklorists, and practitioners of other disciplines pertinent to historic preservation with training and experience of a comparable level to that for historians, architectural historians, and historical architects in the *Secretary's Standards*.

*Reconnaissance survey* means an examination of all or part of an area accomplished in sufficient detail to make generalizations about the types and distributions of historic properties that may be present (from *Secretary's Standards*, 48 FR 44739).

*Secretary* means the Secretary of the Interior.

*Secretary's Standards* means the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716), the project and program standards and guidelines for implementing section 110. They are technical advice concerning archeological and historic preservation activities and methods. The complete *Secretary's Standards* 48 FR 44716) currently address each of the following activities: Preservation Planning, Identification, Evaluation, Registration, Historical Documentation, Architectural and Engineering Documentation, Archeological Documentation, and Preservation Projects (including Rehabilitation).

*State Historic Preservation Officer (SHPO)* means the official appointed or designated pursuant to section 101(b)(1) of the Act to administer the State historic preservation program or a representative designated to act for the SHPO.

*Traditional Cultural Authority* means a person in a Native American group or other traditional social or ethnic group who is recognized by members of the group as an expert on the group's history cultural practices, and folklife.

**Part III. Consultations**

Federal agencies should carry out their historic preservation activities in consultation with those governmental organizations with specific responsibilities under section 110 and with organizations and individuals who can be expected to be concerned about the agencies' preservation activities. In some cases, the involvement may be one of direct consultation and discussion. In other cases, it may be sufficient to notify interested persons and give them an opportunity to comment on agency preservation activities or decisions. The following describes the major parties with responsibilities and/or interest in Federal agency historic preservation activities.

*The National Park Service.* The Service is responsible for performing many of the responsibilities specifically vested in the Secretary of the Interior under the Act. The Service maintains a large cultural resources professional

staff with expertise in the broad range of historic preservation activities authorized under the Act. Expertise can be located in the Service's Washington and Regional Offices, National Parks, and various service centers. Agencies should contact the Associate Director for Cultural Resources, National Park Service, P.O. Box 37127, Washington, DC 20013-7127 for sources of information when they have specific needs.

*SHPOs.* Federal agencies are directed in section 110(a)(2) to cooperate with SHPOs in establishing programs to locate, inventory and nominate historic properties to the National Register. In cooperation with Federal agencies, SHPOs are responsible for directing and conducting a comprehensive statewide survey of historic properties and maintaining inventories of such properties under Section 101(b)(3). These State officials maintain important information on historic properties in inventories and in Comprehensive Statewide Historic Preservation Plans, and are required to have qualified preservation professionals on staff. Federal agencies are advised to solicit their opinions and to seek their assistance in meeting Section 110 responsibilities and are required by 36 CFR Part 800 to do so in meeting their Section 106 responsibilities. Agencies are authorized by Section 110(g) to reimburse SHPOs for their services. Addresses of the SHPOs are available from the National Park Service.

*The Advisory Council on Historic Preservation.* In carrying out its responsibilities under section 110, an agency may find it appropriate to consult with the Advisory Council in three ways. First, the Advisory Council produces guidance documents and other material concerning procedures for avoiding and mitigating adverse effects on historic properties that may be useful in section 110 program implementation. Second, many activities carried out pursuant to section 110 are also subject to review by the Advisory Council under section 106 of the Act and its implementing regulations (36 CFR Part 800). Coordination with the Advisory Council during section 110 program development may simplify or otherwise aid in fulfilling requirements for section 106 review of subsequent undertakings, particularly through the development of programmatic agreements. Third, the Advisory Council has the responsibility under section 202(a)(6) to review the policies and programs of Federal agencies and recommend methods to improve the effectiveness, coordination, and consistency of these policies and programs with the policies and programs carried out under the Act. Agencies may wish to seek such review in developing and improving their section 110 programs.

*Other Federal Agencies.* An agency's section 110 activities should be coordinated with those of other Federal agencies with overlapping jurisdiction over land or programs, that manage adjacent or nearby lands, or that have relevant expertise. Significant efficiencies can be gained, for example, by pooling or otherwise sharing resources in the conduct of preservation planning studies addressing land areas or historic property types under the jurisdiction of multiple agencies.

*Local Governments.* Agencies are urged to seek the opinions of local governments in carrying out their historic preservation responsibilities in specific local jurisdictions. Local governments may have considerable historic preservation capabilities and may maintain records that will assist agencies in the identification of historic properties. In addition, many local governments have sought greater participation in the national historic preservation program and have been certified by the SHPO and the National Park Service as having certain preservation capabilities (see 36 CFR Part 61, Approved State and Local Government Historic Preservation Programs.) A list of Certified Local Governments in each State can be obtained from the National Park Service or from the SHPO.

*Indian tribes and other Native American Groups.* Under the regulations implementing the Archaeological Resources Protection Act, Indian tribes must be notified prior to the issuance of permits that may result in harm to any Indian tribal religious or cultural site on public lands. Applicable regulations are 36 CFR Part 296, issued by the Department of Agriculture; 18 CFR Part 1312, issued by the Tennessee Valley Authority; 32 CFR Part 229, issued by the Department of Defense; and 43 CFR Part 7, issued by the Department of the Interior.

Archeological sites and other historic properties sometimes are places of continuing cultural interest to Indian tribes and other Native American groups, as the burial places of their ancestors, as places that figure in traditional history, and as places where rituals continue to be performed in connection with traditional religions. Such properties also may be eligible for listing in the National Register of Historic Places. Agencies should coordinate their implementation of Section 110 so as to assure the treatment and use of such properties occurs in a manner consistent with the intent and purposes of the American Indian Religious Freedom Act.

*Non-Profit Organizations.* Various non-profit organizations can provide assistance to agencies. For example, organizations made up of professionals in various disciplines can recommend professional services to agencies and assist agencies in evaluating the capabilities of professionals in particular fields. The same organizations can be helpful in ensuring quality control for federally contracted services. The National Trust for Historic Preservation can provide agencies with information on State and local preservation laws and activities. The Trust also can assist agencies in the resolution of conflicts among public and private parties over preservation issues at the State and local level. Statewide and local organizations may offer professional capabilities particularly valuable for work requiring understanding of state or local historic contexts. Other national, state, and local organizations, such as the Archeological Conservancy, statewide and local historic preservation organizations, and academic institutions can provide assistance through cooperative agreements with Federal agencies, as in the administration of easements for lands turned over to third parties and can provide ongoing technical assistance. Lists of appropriate non-profit organizations can be obtained from the SHPO.

*Other Interested Persons.* In addition to the parties discussed above, agencies will usually find considerable interest in their preservation activities on the part of academic institutions, local preservation organizations, historical or archeological commissions, and others who promote historic preservation. Such parties are typically anxious to cooperate with Federal agencies in activities that they view as protective of historic properties, and concerned about activities that they view as potentially destructive. Other parties who use Federal land for economic and recreational purposes, and those who receive Federal assistance or licenses that may be encumbered by preservation conditions, also have legitimate concerns about agency preservation decisionmaking. Agencies should try to involve interested persons in the development and implementation of Section 110 programs, and give them the opportunity to participate in decisions that may affect their interests.

*The Public.* Agencies should be sensitive to the interests of the general

public in the conduct of their preservation activities. Agencies should examine the administrative systems that structure their preservation programs to see that they provide adequately for public participation. Public notice of agency plans and program activities should adequately inform the public of preservation issues in order to elicit public views on such issues, that can then be considered and resolved, when possible, in decisionmaking. Members of the public with interests in historic preservation should be given reasonable opportunities to comment on agency preservation programs.

**Part IV. Subsection-by-Subsection Guidance**

The following is subsection-by-subsection guidance for section 110. Included is a statement of the requirement taken directly from the Act, a statement about the applicability of the requirement, a discussion concerning implementation of the requirement, and some suggested related guidance. Although specific related guidance is included subsection-by-subsection, agencies should consult National Register Bulletin Number 25, *Directory of Technical Assistance.* The *Directory,* prepared to accompany the *Secretary's Standards,* contains a list of sources dealing with preservation planning, identification, evaluation, registration, and protection. The *Secretary's Standards,* the *Directory,* and other information cited in the *Section 110 Guidelines,* are generally available from the Interagency Resources Division, National Park Service, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127, unless otherwise noted. Information prepared by the Advisory Council on Historic Preservation and cited in the *Section 110 Guidelines* is available from the Advisory Council on Historic Preservation, Old Post Office Building, 1100 Pennsylvania Ave., NW. Suite 809, Washington, DC 20004.

*Section 110(a)(1)*

*Requirement:* "The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section."

*Applicability:* Section 110(a)(1) applies to all Federal agencies owning, acquiring, leasing or otherwise controlling properties.

*Discussion:* The basic purpose of section 110(a)(1) is to cause agencies, when planning or carrying out their programs, to consider whether there are ways that the use of historic properties can be effectively integrated into such programs so as to advance program purposes while preserving or even enhancing the integrity of the properties.

(a) *Assuming responsibility.* Section 110(a)(1) requires Federal agencies to "assume responsibility for the preservation of historic properties which are owned or controlled by such agency." In order to assume such responsibility, an agency should:

(1) Undertake a program to identify historic properties under its jurisdiction or control (see guidance for section 110(a)(2);

(2) Maintain a management inventory of documentation developed in the identification program for use in management, including an inventory of evaluated properties, information on properties that have not yet been evaluated, general background data, and information on the overall conduct and status of the identification program (e.g., methods employed, areas inspected using various methods, areas likely to contain unidentified historic properties, etc.);

(3) Integrate its management inventory with its systems for property management, land use planning, and project planning in order to identify opportunities for the effective use and preservation of historic properties, identify potential conflicts between preservation of historic properties and implementation of agency mission requirements, and identify areas where information is insufficient to make planning decisions about historic properties, suggesting the need for further study;

(4) Consider the effects of proposed activities on historic properties early in planning such activities;

(5) Give thorough consideration to the use and re-use of historic properties for agency program purposes as alternatives to the construction, acquisition or leasing of new facilities and to the demolition of historic properties, taking into account the management factors in these guidelines; and,

(6) Seek opportunities for cooperative efforts with other Federal agencies, State and local agencies, Indian tribes, and the private sector in the preservation and use of historic properties.

(b) *Using properties.* Section 110(a)(1) also requires agencies to "use, to the maximum extent feasible, historic properties available to the agency." Agencies should use historic properties in a manner that does not cause significant damage to or deterioration of the property. If the use of the property requires that the property be modified, such modifications should be consistent with the recommended treatments in the *Secretary of the Interior's Standards and Guidelines for Preservation Projects.*

(1) To effectively use historic properties, agencies should:

(i) Identify those program activities that presently involve the use of historic properties and ensure, to the maximum extent possible, that such activities continue to maintain such properties in active use, provided the activities are not causing damage to or deterioration of such properties;

(ii) Identify those program activities that could use historic properties in ways that advance both agency purposes and preservation of the properties, and adjust such activities to the maximum extent possible to cause such use to occur; and,

(iii) Whenever a new activity or program is planned, consider ways that it could be designed in order to use historic properties to the maximum extent possible, and integrate such use into activity or program design.

(2) Examples of the effective use of historic properties include:

(i) Adaptation of a historic warehouse to provide office space;

(ii) Cooperative use of a historic Federal office building for both office and retail purposes;

(iii) Integration of archeological sites into a military training scenario, so that they play the roles of training hazards (e.g., mine fields), thus protecting them while enhancing the training activity;

(iv) Maintaining the integrity of a historic agricultural landscape by encouraging continuing agricultural use;

(v) Maintaining the integrity of historic structures on Federal lands by permitting their adaptive use by private interests with appropriate controls to ensure their preservation;

(vi) Using artifacts, records, and remains that are part of historic properties for purposes of research, public interpretation, and education and,

(vii) Leasing or exchanging historic properties or entering into contracts for

the management of such properties to enhance their preservation consistent with the provisions of Section 111 of the Act.

(3) *Leasing, exchanging, and contracting for management of historic properties.*

(i) Section 111(a) of the Act authorizes Federal agencies, after consultation with the Advisory Council (see 36 CFR Part 800) to lease historic properties under their ownership to persons or organizations, or to exchange historic properties for mutual benefit. The leasing provisions of Section 111(a) allow agencies to maintain ownership of historic properties to assure their continued preservation without necessitating direct agency use. In leasing historic properties, agencies should ensure that:

(A) Proposed treatments and uses of the historic property are appropriate to the quality and significance of the resource;

(B) Leases are prepared with the active participation of professionals from appropriate preservation related disciplines, depending on the areas of significance of the properties being leased;

(C) Treatments of properties are consistent with the *Secretary's Standards and Gudelines for Preservation Projects;* and,

(D) The Advisory Council is consulted pursuant to Section 106 of the Act and its implementing regulations, 36 CFR Part 800.

(ii) Section 111(b) also provides that the proceeds from any lease of a historic property may be retained by the agency and used to defray the costs of administering, maintaining, reporting and otherwise preserving the property or other agency-owned historic properties included on the National Register. Any surplus leasing proceeds are to be deposited in the U.S. Treasury at the end of the second fiscal year following the fiscal year in which they were received.

(iii) The National Park Service has implemented the leasing provision of Section 111 as it applies to historic properties in National Parks and has entered into programmatic memorandum of agreement with the Advisory Council to satisfy the review, comment, and consultation requirements of sections 106 and 111 and 36 CFR Part 800. Further information concerning how the Service is implementing the provisions of Section 111 can be obtained from the Park Historic Architecture Division of the National Park Service and can also be found in 36 CFR Part 18, *Leases and Exchanges of Historic Property.*

(iv) At the time of the development of these guidelines, few models exist for the exchange of historic properties under the authority of section 111. In a few cases, the Bureau of Land Management has entered into agreements with the Advisory Council and SHPOs under which it has disposed of difficult-to-manage land containing archeological sites of minor significance in return for land containing more significant sites. Although these agreements have been developed under the authority of section 106 of the Act without specific reference to section 111, they effectively implement the intent of section 111. Information on such arrangements is available from the Advisory Council.

(v) Agencies should be alert to opportunities for exchanges that will enhance the Federal Government's ownership or management of historic properties. An agency might exchange a historic building that it could not use for a historic building that could be used for its program purposes, if the exchange would serve to ensure the continued preservation of both. An agency that owns most of a historic district might exchange an isolated historic property, or a non-historic property, for a contributing part of the district owned by another party, in order to make possible the preservation, interpretation, or adaptive use of the entire district.

(vi) Section 111(c) allows Federal agencies having responsibility for the management of any historic property to enter into contracts for the management of such property, provided that the agency has consulted with the Advisory Council and the contract contains terms and conditions deemed by the head of the agency to be necessary or appropriate to the protection of the interests of the United States and to ensure adequate preservation of the property. Local governments and non-profit organizations may be good candidates for such management agreements.

(c) *Undertaking preservation.* Section 110(a)(1) also requires agencies to "undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section." The Act defines "preservation" as including "identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, and reconstruction, or any combination of the foregoing activities." Preservation plans should be developed for historic property types that the agency knows it has under its jurisdiction or control, or that are likely to exist on lands under its jurisdiction or control, consistent with the *Secretary's Standards*, developed under section 101(f) of the Act, and taking into account the management factors outlined in these guidelines.

In managing historic properties, agencies should consider a variety of factors in addition to, but not in lieu of, the significant element or elements of the properties which qualify them for inclusion in the National Register. The factors that agencies need to take into account are not constant; rather they vary depending on many considerations, including the general and specific cultural interests of the public.

(1) *Management Factors.* No abstract list of factors to be considered in managing historic properties can be inclusive; some will always be unique to particular cases. The following factors, however, are appliable in virtually all cases.

(i) *Level of significance.* Following the determination as to whether or not a property is historic and the determination of its level of significance, an agency may want to consider the level of significance in management decisions about the property. Although agencies have a uniform standard of preservation responsibilities for all properties eligible for the National Register under their ownership or control, special care should be taken to ensure the preservation of designated NHLs. NHLs have been designated by the Secretary of the Interior because they possess exceptional value in commemorating or illustrating the history of the United States. Enhancement of those qualities that give NHLs their special commemorative and illustrative importance is of special concern to the Federal Government. When considering the relative significance of historic properties beyond the distinction of designated NHLs, agencies should consult the Comprehensive Statewide Historic Preservation Plan to determine aspects of State significance, and conduct appropriate studies to ascertain the degree to which local interests ascribe importance to particular properties.

(ii) *Multiple areas of significance.* Properties may possess significance for several reasons. For example, a property may be eligible for the National Register for its architecture as well as being eligible for an association with an important historic event. Or, a property may possess significance because it is eligible for each of several historical associations. The multiple sources of

significance of a property may enhance its value.

(iii) *Kinds of values.* The nature of a property's significance is a basic consideration in defining how the property should be treated. Historic properties may possess all or some of the following values:

(A) *Interpretive value.* Properties associated with people, groups, or processes significant in our past may have potential for public interpretation as exhibits-in-place or as sources of information for interpretation elsewhere.

(B) *Contribution to sense of time and place.* Historic properties often contribute importantly to a community's, neighborhood's, or rural area's sense of time and place. For example, a town's distinctive historic main street may be central to defining the town's character; historic farms may be definitive of a rural landscape; the rowhouse architecture of an urban historic district may define the valued cultural environment of its inhabitants. Some historic properties, because they are pleasing to the eye, make an important esthetic contribution to the local environment.

(C) *Research/information value.* A property, its elements, or its features may have the potential to reveal important information and fill research needs. Most archeological sites have such value, although research/information value is not exclusively an archeological consideration. Buildings, structures, and other elements of the built environment may have historical, architectural, ethnographic, or sociological research value as well. Further discussion relative to the research/information value of properties can be found in the *Secretary's Standards for Documentation.*

(D) *Rare or typical examples.* A historic property that is rare or unusual because there are few properties of its type extant, or because there are few with similar historical associations, or because the property exhibits unusual features (e.g., interior woodwork, method of construction), may be ascribed special value simply because of its rarity. On the other hand, a property may be ascribed special value because it exemplifies a type, method of construction, settlement pattern, or economic system.

(E) *Sociocultural value.* Some historic properties that are still used for their historical purposes, or for related purposes, have special social and cultural significance to their users. Examples are sites and areas used by American Indians for traditional religious purposes, and historic districts that represent the living space of particular social or ethnic groups.

(iv) *Integrity.* Integrity is a measure of a property's authenticity and is evidenced by the survival of physical characteristics that existed during the property's period of significance. Intergrity is a matter of concern with reference to those characteristics of a property that may make it eligible for the National Register. If, for example, a building is significant primarily for its exterior architectural detailing, and it has been stripped of most of its exterior elements as part of structural improvements, it may have lost its integrity, even though it might be in sound structural condition. Similarly, if an archeological site is important primarily for the information contained in stratigraphic relationships among artifacts, other objects, and soil layers, and these relationships have been seriously distorted through natural or human land disturbance, the site may have lost its integrity. It should be noted in judging integrity, however, that sometimes the changes a property has undergone may themselves be of historical or architectural interest, and that even disturbed archeological contexts can sometimes yield useful information.

(v) *Condition.* The different conditions of resources require different management decisions and techniques. Whatever its historical integrity, a property that is in relatively good condition will be easier to maintain or rehabilitate than one that is in relatively poor condition (see *Secretary's Standards for Preservation Projects,* also found in 36 CFR Part 68).

(vi) *Cost to maintain/operate the property.* The short-term and long-term costs of programmatic and property-specific resource management strategies should be fully considered. For example, historic structures that require smaller investments to maintain and operate may prove cost effective to manage through rehabilitation or adaptive use, whereas other structures with higher operating costs may not. The relative cost of various management strategies for a historic property, perhaps ranging from full rehabilitation and adaptive use to demolition and replacement with a modern building, should be carefully and objectively considered, with reference to the pertinent requirements of Executive Order 11912, as amended, to the pertinent criteria established in OMB Circular A-94, and to the pertinent principles and methods set forth in the National Bureau of Standards *Life-Cycle Costing Manual* (NBS Handbook 135).

Applicable long- and short-term maintenance costs should be carefully considered as part of any cost analysis. It is often the case that the short-term costs of preserving a historic structure are balanced by long-term savings in maintenance or replacement; on the other hand, failure to perform needed cyclic maintenance may shorten the life of a building and decrease the value of investment in its rehabilitation.

(vii) *Existing use or potential re-use.* Whether a historic property now serves, or could serve, the contemporary or future purposes of the agency or others is an important consideration in establishing management priorities. For example, when historic properties are used for administrative offices or housing in a manner that does not destroy their integrity, such use serves both preservation and contemporary management needs.

(2) Factors to consider in managing historic properties will vary depending on the mission of the agency, its needs, and the money available for preservation. Although approaches will necessarily vary from agency to agency, each can aggressively carry out the requirement to undertake preservation. An agency may choose to make a substantial investment in order to preserve an NHL that is in poor condition, while another agency may make the same investment to preserve a dozen other historic propeties which are in good condition. Some agencies will have more historic properties available for adaptive use than they can actually use. In such cases, consideration of the condition, significance, integrity, and maintenance costs will be weighed heavily in determining management priorities.

(3) As part of its historic preservation program, each agency should develop a system that considers the factors described in these guidelines. The system should be straightforward and easy to carry out. Although the system should allow the agency to set realistic priorities, recognizing that ideal preservation is not always affordable, it should not be designed to justify agency avoidance of its historic preservation responsibilities under the Act. The agency's system, if thoughtfully developed and implemented, should contribute to an aggressive Federal effort to preserve historic properties while being cost-effective and compatible with the agency's mission.

(4) *Preservation in place.* Generally, historic properties should be preserved on their original sites. This rule, of course, does not apply to properties that are inherently mobile, such as ships and airplanes. Usually immobile buildings and structures may be moved, and

archeological properties removed from their orginal sites, under certain conditions as discussed below.

(i) *Buildings and structures.* Historic buildings and structures should be moved only when there is no feasible alternative for preservation. When such a property is moved, every effort should be made to reestablish its historic orientation, immediate setting and general environment. Where there is no alternative to relocating a historic building or structure, it should be moved in accordance with National Park Service guidance [See Related Requirements and Guidance following this discussion of Section 110(a)(1)], and consistent with National Register procedures, 30 CFR Part 60. Where it is feasible to maintain a building on its original site, the cost and management responsibility of preserving the building needs to be considered relative to the cost and effort of moving it and other consequences, such as the subsequent need to relocate a construction or land-use project.

(ii) *Archeological sites.* Preservation in place is also usually the preferred approach with respect to archeological sites, but in some cases it is more appropriate to excavate all or part of a site, thus relocating some of the materials it contains and translating some of the information it contains into written or other forms for future reference. As an example, in balancing the need for preservation of an archeological site in place against other needs, agencies should consider:

(A) Whether leaving the site in place will actually preserve it (i.e., will the site be vulnerable to adverse effects, such as vandalism or erosion);

(B) Whether there is a compelling reason to excavate the site for its research value (i.e., can study of the site answer a research question sufficient in content to justify sacrificing the undocumented portion of the site);

(C) The cost and management responsibility of preserving the site in place relative to the cost and effort of excavating it (e.g., will leaving the site in place require expensive relocation of a construction or land-use project); and

(D) Whether the site has values beyond those of archeological research that suggest the need for preservation (i.e., does it have interpretive potential; does it possess important research values that cannot effectively be documented with present data recovery technology; or is it a site of cultural importance to the descendants of those who created it?).

(5) *Management of artifacts, records or remains.* Where an agency has management responsibility for archeological artifacts, records, or remains related to a historic property but no longer physically present within the property, these should be cared for in accordance with the requirements in 36 CFR Part 79, *Curation of Federally Owned and Administered Archeological Collection* (proposed on August 28, 1987; see **Federal Register,** 52 FR 32740). These regulations discuss the broad range of issues related to the curation of Federally owned or administered archeological collections and provide mechanisms for the care and/or disposal of archeological materials.

Related Requirements and Guidance

The following additional guidance is recommended:

*The Secretary of the Interior's Standards and Guidelines for Preservation Projects.* These Standards and Guidelines, codified in 36 CFR Part 68, provide advice about treatments of historic properties (See Introduction, Part I of these Guidelines, and the definition of the *Secretary's Standards*)

36 CFR Part 60, *National Register of Historic Places.* These regulations include the procedures for retaining properties on the National Register during and after moving such properties.

36 CFR Part 18, *Leases and Exchanges of Historic Property.* These regulations govern National Park Service leases and exchanges provided for in Section 111 of the Act.

36 CFR Part 79, *Curation of Federally Owned and Administered Archeological Collections* (proposed on August 28, 1987; see **Federal Register,** 52 FR 32740). These regulations implement Federal curatorial requirements of the Act and the Archaeological Resources Protection Act.

36 CFR Part 800, *Protection of Historic Properties.* These regulations, issued by the Advisory Council, implement the requirement in Section 106 of the Act that Federal agencies consider the effects of their undertakings on historic properties.

National Register Bulletin #15, *Guidelines for Applying the National Register Criteria for Evaluation.* This bulletin discusses in-depth the National Register Criteria and how they are used in evaluating properties that may be eligible for the National Register.

National Register Bulletin #16, *Guidelines for Completing National Register Forms.* This Bulletin provides step by step guidance on completing National Register nomination forms and includes discussion of evaluation issues such as integrity and significance.

*Section 106 Step by Step.* Published by the Advisory Council, this booklet describes the procedures to be followed in complying with the requirement of Section 106 of the Act and implementing regulations 36 CFR Part 800.

*Manual of Mitigation Measures.* Published by the Advisory Council, this booklet describes suggested mitigation measures to be used in avoiding or minimizing adverse effects on historic properties.

*Preservation Briefs.* This is a series of publications explaining recommended methods and approaches for rehabilitating historic buildings in a manner consistent with their historical character (catalog listing Briefs and Government Printing Office stock numbers available from the Preservation Assistance Division of the National Park Service).

*Technical Reports.* Each publication in this series addresses in detail problems confronted by architects, engineers, government officials, and other technicians involved in the preservation of historic buildings (catalog listing Briefs and Government Printing Office stock numbers available from the Preservation Assistance Division of the National Park Service).

*Preservation Case Studies.* These publications provide practical, solution-oriented information concerning courses of action taken in the preservation of buildings (catalog listing Briefs and Government Printing Office stock numbers available from the Preservation Assistance Division of the National Park Service).

*Preservation Tech Notes.* Each publication in this series identifies a specific preservation problem and describes actions taken to resolve it consistent with the *Secretary of the Interior's Standards and Guidelines for Preservation Projects* (catalog listing Briefs and Government Printing Office stock numbers available from the Preservation Assistance Division of the National Park Service).

Curtis, John Obed; *Moving Historic Buildings,* National Park Service, 1979; (National Technical Information Service order number: PB85-182392). This publication describes and illustrates moving techniques and includes case studies.

*National Park Service Museum Handbook.* Published by the National Park Service, this handbook provides guidance on the management of museum collections. Although specifically developed for use by the Service in managing its collections, the Handbook should be useful to other Federal agencies in collections management. The Handbook will be available from the Government Printing Office in 1988.

*Section 110(a)(2)*

*Requirement:* "With the advice of the Secretary and in cooperation with the State Historic Preservation Officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency's ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 101(a)(2)(A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly."

*Applicability:* Section 110(a)(2) applies to all Federal agencies owning or controlling properties which may be eligible for the National Register.

*Discussion:*

(a) *The agency program.* The "program" established under this requirement, to "locate, inventory, and nominate" historic properties to the National Register, should be fully integrated into the agency's overall historic preservation program and other agency systems for property management, and land use and project planning.

(1) *Historic preservation plans.* The program should provide for the development and use of comprehensive historic preservation plan(s) which:

(i) Establish historic contexts by which to identify and evaluate historic properties (see *Secretary's Standards and Guidelines for Preservation Planning* (48 FR 44717));

(ii) Use historic contexts to organize data and to develop goals, objectives, and priorities for the identification, evaluation, registration, and treatment of historic properties (see *Secretary's Standards and Guidelines for Preservation Planning* (48 FR 44717)); and,

(iii) Make the results of preservation planning available for integration into broader planning processes (see *Secretary's Standards and Guidelines for Preservation Planning* (48 FR 44717)).

(2) *General guidelines.* In carrying out this requirement, the agency, in consultation with the SHPO, should:

(i) Conduct background studies, field surveys and analyses to identify and evaluate properties against National Register criteria and nominate eligible properties consistent with the *Secretary of the Interior's Standards and Guidelines for Planning, Identification, Evaluation, and Registration*, the National Register regulations, 36 CFR Part 60, and appropriate National Register Bulletins (see Related Requirements and Guidance following this discussion of section 110(a)(2)).

(ii) Seek and consider the views of other Federal agencies, local governments, Indian tribes, and other interested persons in the development and maintenance of the agency's historic preservation planning, inventory, evaluation and nomination program;

(iii) Ensure that identification, evaluation and registration routinely address the full range of historic property types likely to be present.

(iv) Give priority consideration for survey, evaluation, and registration to areas in which the agency has proposed undertakings or where threats to the resources from other factors, such as significant deterioration or vandalism, have been identified;

(v) Include as a priority the survey, evaluation, and registration of areas where the agency lacks sufficient information about historic properties to permit effective long-range planning and protection efforts;

(vi) Provide for the identification, evaluation and registration of historic properties prior to acquiring lands, especially if acquired for construction or alteration;

(vii) Coordinate identification, evaluation, and registration activities consistent with the Comprehensive Statewide Historic Preservation Plan and the statewide inventory carried out by each SHPO, with similar efforts carried out by other Federal, State and local agencies, and with identification programs carried out to meet the requirements of section 106 of the Act and implementing regulations, 36 CFR Part 800; and

(vii) Consider the possible advantages of using their programs, where applicable, as the bases for programmatic agreements with the Advisory Council to facilitate compliance with section 106 of the Act (See 36 CFR 800.13).

(3) *Agency programs involving general land use planning.* Where an agency is involved in overall urban or rural land use planning, its program to locate, inventory, and nominate historic properties should be integrated with the development, refinement, and implementation of such planning. Background studies and field reconnaissance should be used to generate initial predictions about the location and nature of historic properties, as discussed in (b)(2)(ii) of the guidance for this section. Such predictions can be used as bases for zoning and other forms of land-use control, and as guides for more location-specific identification and planning activities.

(4) *Agency programs involving large-scale projects.* Where agencies are involved in planning, permitting, assisting, or carrying out projects that affect relatively large areas (e.g., long pipelines, surface mines, timber sales, military training exercises, etc.), a historic preservation plan might be developed for each such project, for multiple projects in a given region, or for a particular type of project, to guide location, inventory, nomination, and consideration of historic properties in project planning and implementation. Development of such plans should be coordinated with relevant SHPOs, the Advisory Council, and if applicable other interested persons in order to facilitate review under section 106 of the Act.

(5) *Agency programs involving small scale projects.* Where agencies are involved in planning, permitting, assisting or carrying out projects that affect relatively small areas (e.g., construction of single buildings, short pipelines, short segments of highway, etc.), the responsible agency should consult with the SHPO and other knowledgable parties to determine (a) whether historic properties are known or expected to occur within the area(s) subject to direct or indirect effect by the project, and (b) what kinds of further identification and evaluation efforts may be appropriate. Generally, background research and field survey conducted in accordance with the *Secretary of the Interior's Standards and Guidelines for Identification* are appropriate where areas subject to effect have not been surveyed in the past, unless reliable data indicate that it is very unlikely that historic properties will be found in such areas. Where poorly defined areas are involved, such as where project effects are indirect and difficult to predict, it may be feasible only to generate and test a predictive model based on background research and reconnaissance survey, but sufficient study should be done to provide a basis for decisionmaking about the effects of the project and about possible mitigation measures.

(6) *Buildings management programs.* (i) Where agencies are involved in the management of buildings, a systematic inventory of such buildings should be conducted, in a manner consistent with the *Secretary of the Interior's Standards and Guidelines for Identification and Evaluation*, applying the National Register criteria found in 36 CFR Part 60 to each building or group of buildings to

determine its eligibility for the National Register. Such inventories can be phased over a number of years, but in any event each building should be evaluated well before a decision is made about demolition or substantial alteration so the agency can carry out its responsibilities under sections 110(a)(2), 110(b), and 106, and 36 CFR Part 800 in a timely manner.

(ii) When considering the significance of a building, the surroundings of the building should be considered as well. For example, if a building is in a historic district, it should be evaluated in the context of the district as a whole. If the building is part of a group of buildings that form a cohesive whole, but have not been recognized as a district, the possibility that they are eligible for the National Register as a district should be considered.

(iii) Although buildings may most often be determined eligible for the National Register because of their historic associations or architectural qualities, the information they may contain about the past should also be considered. Such information may be contained, for example, in evidence of construction techniques, in a building's fittings and internal organization, and in the furniture and documents it may contain. The possibility that important archeological deposits exist under or around buildings should also be taken into account.

(b) *Location and Inventory.* In locating, evaluating and adding properties to the management inventory, agencies should consult the *Secretary of the Interior's Standards and Guidelines for Identification and Evaluation.* As a first step in the process, agencies should determine, in consultation with the SHPO, if surveys have been conducted and, if so, consult those survey reports.

(1) *Existing inventories.* In addition to area-specific reports that the SHPO may provide or recommend, sources of information on historic properties already identified include:

(i) *The National Register of Historic Places.* The Secretary maintains this list of properties of national, State and local significance. Detailed information concerning the boundaries of historic properties listed in, or determined eligible for, the National Register can be obtained from the SHPO. An automated National Register Information System is scheduled for testing in FY 1987, and for general on-line access by State and Federal agencies in FY 1988.

(ii) *Historic American Buildings Survey and Historic American Engineering Record (HABS/HAER).* HABS/HAER catalogues maintained by the Library of Congress contain historical and architectural information on buildings and structures that have been recorded by the National Park Service. For information concerning access to the catalogues, agencies should contact the Prints and Photographs Division, Library of Congress, Washington, DC 20540.

(iii) *National Archeological Data Base (NADB).* The NADB, maintained by the National Park Service, includes bibliographical references to reports prepared by and for Federal agencies, information on Federal agency projects that included archeological work, and names and locational information on other archeological data bases, as well as other references to projects not actually funded by agencies. For information concerning access to the NADB, agencies should contact the Departmental Consulting Archeologist, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013-7127.

(iv) *Federal and State agency data bases.* Many Federal and State agencies that manage land or buildings maintain inventories of known historic properties under their control, or have historic preservation plans pertaining to particular areas under their jurisdiction.

(v) *State registers and inventories.* Data from State registers or inventories of properties may be obtained from the appropriate SHPO. In addition to National Register properties, these State registers usually include other properties determined to be significant by the State and properties that have not yet been evaluated.

(vi) *Comprehensive Statewide Historic Preservation Plans.* That Comprehensive Statewide Historic Preservation Plan, maintained by the SHPO pursuant to section 101(b)(3)(C), will assist in identifying historic contexts, property types expected to represent those contexts, the significance of properties, and the State's preservation objectives for properties and property classes.

(vii) *Local government records.* Many local governments maintain records that may assist agencies in the identification of historic properties.

(viii) *Records of academic institutions, historical organizations and others.* Museums, academic institutions, and historical and archeological societies often maintain data bases relevant to identification.

(ix) *Indian tribal records.* Indian tribes sometimes maintain records of properties having cultural significance.

(x) *Non-inventory data sources.* Particularly where large land areas are involved, several kinds of information not normally found in inventories may be even more useful than existing inventories in developing an identification program. The SHPO can direct agencies to relevant data sources including:

(A) Ethnographic reports and local histories useful in identifying areas where prehistoric or early historic groups may have lived or carried on other activities that would produce historic properties;

(B) Models developed by cultural geographers and anthropologists that can be used in generating predictions about the distribution of historic properties;

(C) Oral historical data collected from traditional cultural authorities by folklorists, cultural anthropologists, historians and other researchers that may indicate how land in the area was used in the past, where particular activities were carried out, and thus where different kinds of historic properties may exist;

(D) Interviews with local artifact collectors that may be useful in identifying archeological sites;

(E) Aerial and satellite imaging data, soil maps, and data on the distribution of plant communities, raw materials used in prehistoric and early historic economic activities, and other environmental data that may be important to the development of predictions about historic property distributions.

(2) *Surveys to identify unrecorded historic properties.* If survey reports, inventories, and non-inventory data indicate that the area under study has been adequately surveyed to identify historic properties, or that it can reliably be assumed that no historic properties exist in the area, no further work should be necessary. If the data suggest that unrecorded historic properties may exist, the agency should proceed with field survey to identify such properties.

The scale of any field survey should be defined with reference to the agency's management needs, as discussed in (a) of the guidance for this Section. Generally, however, the following activities are involved in conducting a survey:

(i) *Identifying historic contexts.* Decisions about the identification, evaluation, registration and treatment of historic properties are best made within predermined historic contexts.

(A) A historic context can be described as a particular historic theme that is further delineated by a time period and a geographic area. For example, a property associated with coal mining in the late 19th century in western Kentucky can be compared

with other properties having the same historic context in making decisions about specific properties within the context.

(B) Historic contexts are identified based on survey records, inventories, archival research and non-inventory data.

(C) Agencies should adopt, where feasible, State developed historic contexts for the identification and evaluation of historic properties. This will save considerable time and effort and will ensure that the agency and the SHPO are operating under the same assumptions concerning the historic and archeological significance of resources. Likewise, where Federal agencies have developed historic contexts, they should provide information on these contexts to appropriate SHPOs for State use and incorporation into State planning activities. The SHPO may also identify specific properties that might quality for inclusion in the National Register. State identified historic contexts and State plans are available from the appropriate SHPO.

(ii) *Predicting property types and locations.* Based on historic contexts, it should be possible to predict where different kinds of historic properties may exist within the study area. The accuracy of such predictions, often referred to as predictive models, will vary depending on the quality and quality of information on which they are based. Allowance should always be made for the possible existence of unanticipated property types, perhaps representing unanticipated historic contexts, in unexpected locations. Predictive modeling can be based on information that varies in quality and quantity. It is therefore important that they be evaluated and verified through empirical field testing before they are used as a regular element in agency decisionmaking. Field testing can employ sampling techniques to evalute and verify predictive models efficiently. Once a predictive model has been verified, it can be used as a basis for stratifying the survey area into zones of probability and as a basis for evaluating the significance of properties and for developing appropriate treatment strategies.

(iii) *Considering factors that may disguise historic properties.* Agencies should take into account factors that may may mask or disguise historic properties, for example the attachment of more recent facades to older buildings, the burial of archeological sites under fill dirt or older sediment, and the fact that some historic activities, such as some American Indian religious-cultural practices, may have left little or no trace on the land.

(iv) *Type and method of survey.* Based on the above factors and the agency's program needs discussed in (a) of the guidance for this Section, agencies should determine the type of survey to be conducted and any special methods to use. Fieldwork should be conducted in accordance with the *Secretary's Standards for Identification* and, if applicable, 36 CFR 800.4. The selection of a method for a specific survey will be based on a variety of factors including size of the area to be surveyed, the geology and geography of the area, the types and number of historic properties known and anticipated, the degree of vegetative cover, the degree of land disturbance, and agency management objectives. The reliability of alternative survey strategies should be evaluated in consultation with the SHIPO. Several sources of information on predictive modeling and survey methods are referenced under Related Requirements and Guidance following this discussion.

(v) *Conducting timely surveys.* Agencies should select appropriate strategies to ensure that surveys are completed so that the agency can carry out its responsibilities under Section 106 of the Act and 36 CFR Part 800 before initiating any activity that might damage or disturb historic properties.

(vi) *Applying the National Register criteria.* As a basis for nominating properties to the Secretary, agencies must apply the National Register criteria in evaluating identified properties. Evaluations should be made consistent with the *Secretary's Standards for Evaluation.*

(vii) *Preparing the report of the survey results.* (A) Agencies should prepare a report on survey results, both negative and positive, fully documenting the rationale for decisions made in the identification and evaluation of properties. The inclusion of negative data—that is, on surveys that result in the identification of no historic properties—is important to ensure that redundant surveys will not be performed in the future. Negative data also are needed to improve the reliability of predictive models.

(B) Agencies should provide such reports to the SHIPO and other interested parties for review, comment, and incorporation into statewise historic resource inventories, and for use in reviews under Section 106 of the Act when applicable. Such reporting to the State assists the State in maintaining comprehensive inventories while ensuring that State and Federal efforts are coordinated and compatible. Modification of reports, and sometimes additional fieldwork, may be appropriate based on review comments. Historic properties should be reported in a manner that facilitates their incorporation into State inventories. Information should be restricted if it is determined that disclosure might create a threat (see discussion of *Disclosure of sensitive information* in the guidance for this section).

(viii) *Synthesizing reports.* Where large-scale surveys are conducted, or smaller scale surveys over time result in the accumulation of substantial bodies of survey data about a given area, agencies should prepare reports synthesizing and analyzing the resulting data for use by interested scholars as well as for management purposes. Such syntheses should be provided to SHIPOs and other interested parties for review, comment, and incorporation into inventories.

(3) *Properties that may become eligible in the future.* In conducting surveys, agencies may encounter properties that are potentially eligible for the National Register, but that do not meet the criteria at the time of the survey. For example, properties may be less than 50 years old and not of exceptional significance and, therefore, would not meet the National Register criteria. If such properties are likely to become eligible in the future, it is to the agency's advantage to document them at the time of survey to facilitate later evaluation and registration.

(4) *Properties on Indian lands or important to Indian tribes.* When identification takes place on Indian lands, on lands to which Indian tribes retain residual rights or on lands used by Indian tribes, agencies should consult with the governing body of the appropriate tribe. Agencies also may find that useful historic resource information can be obtained from traditional cultural authorities. Although such authorities may not be part of the official governing body, they may be particularly knowledgable with respect to properties on lands formerly used by tribes, properties that may have continuing cultural importance to a tribe, and archeological sites respresenting a tribe's history or prehistory.

(5) *Submerged lands.* For submerged lands, documentary and field research may serve to indicate the need for physical and/or electronic surveys for submerged archeological sites or sunken vessels. The Department of the Interior's Minerals Management Service (MMS) has developed an extensive program dealing exclusively with the submerged

resources of the Outer Continental Shelf. The Program is detailed in the MMS publication *Handbook for Archaeological Resource Protection.* The bases of the program are the large-scale predictive models developed for each of the MMS regions. These models coupled with area-specific update analyses are used to determine whether site-specific surveys are necessary. A methodology for conducting large-scale deepwater surveys in the Gulf of Mexico has been issued by the MMS and may be readily adapted to other affected areas. Additionally, studies developing and implementing methods for locating submerged sites through coring procedures are available through the National Park Service and the MMS (See *Related Requirements and Guidance* for this section). Assistance in the conduct of smaller scale underwater examinations is available from the National Park Service's Southwest Cultural Resources Center, Submerged Cultural Resources Unit, P.O. Box 728, Santa Fe, NM 87501.

Because of the specialized nature and problems attending underwater survey activities, agency officials may wish to review specific survey, inventory, and documentation procedures with the Departmental Consulting Archeologist, National Park Service, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127. Additional expertise is available from those SHPOs whose programs include underwater archeology.

(6) *Artifacts, Records, and Remains.* Agencies should make an effort to document the current location and condition of artifacts, records and remains related to historic properties under their jurisdiction or control. In some cases, such as when objects have long been removed from their places of origin, documentation, may not be feasible. Documentation should be included as appropriate in identification and evaluation records as well as National Register property records.

(7) *Avoiding damage.* Every effort should be made to ensure that the values and attributes of properties which make them eligible for the National Register are not inadvertently damaged or destroyed during identification and evaluation. For example, testing of archeological materials or archeological properties during evaluation should be done in accordance with a research design in a way that minimizes loss of archeological data and damage to the property's integrity. Testing should not proceed beyond the point of providing sufficient information for evaluations of eligibility for the National Register and for planning property management. The effects of excavations that proceed beyond this point must be reviewed under Section 106 of the Act and 36 CFR Part 800. Agencies should consult with the SHPO when designating testing programs to ensure that they are not excessive. The Department of the Interior's Consulting Archeologist can also review testing programs and advise agencies as to the appropriate standards.

(8) *Management inventory.* Each agency should create a management inventory of all known historic properties (whether or not they are listed in or determined eligible for the National Register) under its jurisdiction or control, adding records of such properties as identified. Information on properties added to the inventory should be provided to appropriate SHPOs for addition to State inventories. Agencies are encouraged to use National Register nomination form #10–900 in maintaining historic property inventory information. Agencies may also want to consider using standardized survey forms provided and used by the SHPO to make inventory information consistent with databases maintained by the SHPO. Although these forms can be augmented by other forms as the agency deems necessary, use of existing formats ensures that new inventory data are consistent with existing inventories and potentially available to as wide an audience as possible. In addition, each agency should maintain records of the results of identification and evaluation efforts, including:

(i) A description of the methodology used for identification in each case (e.g., techniques used in observation of standing structures, surface inspection, subsurface testing, aerial photography, remote sensing, etc.);

(ii) Information indicating what lands and properties under Federal jurisdiction or control have been surveyed and by whom, the type of survey employed, scaled, maps showing those areas or structures actually inspected during the surveys, a management inventory file containing documentation on all evaluated historic and non-historic properties, site photographs, and data on areas where historic properties are not located;

(iii) Information on methods used in evaluating properties;

(iv) Records of sources and informants used in the identification and evaluation; and,

(v) Documents prepared during the evaluation (e.g., inventory forms, records of consultations with SHPO and others).

(9) *Data bases.* Agencies are encouraged to assist the Secretary, in his cooperative effort with the Advisory Council and SHPOs, in undertaking and encouraging the development of statewide and regional data bases, comprehensive historic preservation planning, archeological and historical research designs, and management plans that will assist agencies in meeting the requirements of Section 110(a)(2). Such cooperation will facilitate the development of a comprehensive body of information on potentially significant properties, level and type of survey coverage, the likelihood that historic properties will be found in various unsurveyed areas, and the bases for evaluating newly discovered properties. The automation of such inventories should be done with reference to the National Register Information System data elements and field definitions to ensure compatibility and coordination among other agencies. Data should also be capable of being converted into ASCII format for transferability to other data base management systems.

(1) *Disclosure of sensitive information.* Under Section 304 of the Act, an agency shall not disclose information to the public relating to the location or character of historic or archeological properties if the agency determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such properties or to the area or place where such properties are located. In determining whether and how to disclose information, an agency should balance the need to protect properties from injury against the need to disclose information on such properties to those who may be concerned about, or have the responsibility to comment upon, agency actions that may affect such properties. Where both needs exist, reports on historic properties should be organized so that locational information can be withheld while descriptive information and other data needed for planning and review purposes are disclosed. If, in specific cases, agencies need assistance in determining whether it is appropriate to disclose locational information, they should consult the SHPO or request the opinion of the Keeper of the National Register.

(c) *Nominations to the National Register.* Agencies should nominate properties found to be eligible for the National Register in accordance with the procedures in 36 CFR Part 60, the *Secretary's Standards for Registration,*

and National Park Service technical information materials designed to assist in interpreting National Register criteria.

*Multiple Property Registration Form.* The Multiple Property Registration Form (NPS–10–900–b), when used in conjunction with the National Register of Historic Places Registration Form (NPS–10–900), serves to consolidate and organize information on historic properties for listing or determinations of eligibility for listing in the National Register. Agencies should use the Multiple Property Registration Form to register a large group of historic properties simultaneously, to establish a basis upon which to evaluate historic properties. This form replaces the multiple resource and thematic group formats previously used for registering properties related by geography or theme but contains much of the same information these forms required. The Multiple Property Registration Form serves as a cover document that includes three major elements: the set of historic contexts the agency intends to use in evaluating the significance of historic properties; the associated property types within which historic properties under their jurisdiction will be grouped; and the degree of historic integrity that related properties must possess to qualify for listing in the National Register or be determined eligible for listing. Registration documentation on types of properties should be prepared consistent with National Register Bulletins (See Related Requirements and Guidance information following this discussion of Section 110(a)(2)).

(d) *Exercising caution.* Section 110(a)(2) requires that agencies to "exercise caution" to ensure that uninventoried historic properties and those properties that have been identified but not yet evaluated or nominated to the National Register are not adversely impacted or inadvertently transferred, sold, demolished, substantially altered or allowed to deteriorate significantly. Until an evaluation can be made, properties should be treated as though they are eligible and managed accordingly.

(1) In order to carry out this requirement, agencies should:

(i) Establish maintenance plans for historic buildings and structures under their ownership or control that ensure their long-term preservation; train maintenance personnel in the use of such plans and appropriate maintenance techniques and preservation treatments; and ensure that alterations to properties that may be eligible for the National Register meet the *Secretary of the Interior's Standards and Guidelines for Preservation Projects*, and are reviewed in accordance with Section 106 of the Act and 36 CFR Part 800;

(ii) Conduct necessary identification and evaluation efforts, in consultation with the SHPO, and in accordance with Advisory Council procedures, 36 CFR 800.4, for unidentified or unevaluated properties subject to effect by agency actions or in areas subject to damage from natural processes, vandalism, or other deterioration; and,

(iii) Carefully consider known and potential threats to and effects on historic properties, including those resulting from planned agency actions and those brought about by natural forces or vandalism. This consideration should be carried out in accordance with Advisory Council regulations, 36 CFR Part 800, and address:

(A) Impacts that cause degradation and/or loss of those characteristics that make a property eligible for the National Register, including the introduction of physical, visual, audible, or atmospheric elements that are out of character with the property and its setting;

(B) Adverse effects resulting from natural forces or vandalism;

(C) Duration of adverse effects;

(D) The impact of any proposed action upon the property;

(E) The effects of disclosure of information to the public relating to the location or character of properties that may be historic, particularly archeological sites (see (b)(11), *Disclosure of sensitive information* in this section).

(F) Secondary or indirect impacts resulting from associated activities induced or promoted by the proposed action on the property;

(G) The relationship between local short-term uses of the property and the long-term preservation and enhancement of the property, indicating to what extent long-term consideration of preservation and enhancement are foreclosed by any proposed action; and,

(H) The likelihood of unexpected discoveries of significant resources. Special consideration should be given to the likelihood that such discoveries will be made after an agency's undertaking begins, particularly if environmental conditions are such that it is impossible to identify all historic properties before the action begins (for example, where sediment accumulation may have buried archeological sites). In such cases, plans for handling discoveries should be developed in accordance with Advisory Council procedures, 36 CFR 800.11(a), or provision made for entering into consultations with the Secretary under the Archeological and Historic Preservation Act (Pub. L. 93–291) in the event of an unexpected discovery. Public Law 93–291 will be implemented in 36 CFR Part 66, *Archeological and Historic Preservation Act; Department of the Interior Regulations* scheduled to be proposed in 1988.

(2) *Necessary actions.* Based on the determination of effects, agencies should take the actions necessary to avoid or mitigate adverse effects on historic properties These actions should take into account the relevant management factors (see guidance for Section 110(a)(1) of these guidelines) and be developed and reviewed under 36 CFR 800.5 and 800.6 of the Advisory Council's regulations. Appropriate actions may include:

(i) Continued use or adaptive use of properties by Federal agencies;

(ii) Making properties available to non-Federal parties for adaptive use;

(iii) Design of projects to protect and enhance properties;

(iv) Physical stabilization of properties;

(v) Altering the property's environment to protect it (e.g., burying an archeological site);

(vi) Conducting detailed historic, architectural, and engineering documentation in accordance with the *Secretary's Standards for Historical, Architectural, and Engineering Documentation;*

(vii) Archeological research to recover and analyze significant data and materials from threatened archeological sites in accordance with the *Secretary's Standards for Archeological Documentation;*

(viii) Relocation of structures or objects (e.g., pieces of rock art), when preservation in place is not feasible, to a setting similar to that of the original location;

(ix) Salvage of architectural elements for exhibition or reuse;

(x) Provision for publication or other dissemination of information gained from identification, documentation, data recovery, and related activities in a manner that makes the information available for appropriate public and management uses but does not result in the danger that historic properties will be vandalized or otherwise damanged;

(xi) recordation and deposition of documentation in an appropriate repository (see guidance for section 110(b));

(xii) curation of archeological artifacts, records, and remains related to historic properties but no longer physically present within the property in accordance with 36 CFR Part 79, *Curation of Federally Owned and Administered Archeological Collections*

(proposed on August 28, 1987; see **Federal Register**, 52 FR 32740); and,

(xiii) other preservation steps as may be necessary consistent with the established priorities of the agency as determined in consideration of the management factors outlined in these guidelines.

*Related Requirements and Guidance:* The following additional guidance is recommended:

*The Secretary of the Interior's Standards and Guidelines for Preservation Planning, Identification, Evaluation and Registration,* 48 FR 44716 (See Introduction, Part I of these Guidelines, and the definition of the *Secretary's Standards*)

*The National Register of Historic Places.* Names and addresses of properties listed in, or determined eligible for, the National Register is published in the **Federal Register.** A cumulative list of properties was published in its entirety in the **Federal Register,** February 6, 1979. Annual updates of properties added were published on March 18, 1980; February 3, 1981; February 2, 1982; March 1, 1983; February 7, 1984; March 5, 1985; and February 25, 1986. More detailed data are available from the Keeper or from the appropriate SHPO.

*National Register of Historic Places Bulletin Series.* This is a series of publications about comprehensive planning, survey of cultural resources, and registration in the National Register. An annotated list of the Bulletins is available from the Interagency Resources Division at the address in the first paragraph of Part IV of these Guidelines. Bulletins are also listed in National Register Bulletin Number 25, *Directory of Technology Assistance.*

The Minerals Management Service *Handbook of Archaeological Resource Protection (620.1–H)* (available from the Minerals Management Service, United States Department of the Interior, 12203 Sunrise Valley Drive, Reston, VA 22091).

*Notice to Lessees and Operators of Federal Oil and Gas Leases in the Other Continental Shelf, Gulf of Mexico OCS Region, Number 75–3, Revision Number 1, Enclosures 1 and 2* (available from the Gulf of Mexico OCS Region, Minerals Management Service, United States Department of the Interior, P.O. Box 7944, Metairie, LA 70010). This publication presents a sound methodology for conducting large scale deep water surveys in the Gulf of Mexico that may be readily adapted to other areas.

Gagliano, Sherwood, M.; et. al; *Sedimentary Studies of Prehistoric Archaeological Sites;* Criteria for the identification of submerged archaeological sites of the northern Gulf of Mexico continental shelf; National Park Service Preservation Planning Series; 1982.

Pearson, Charles, E., David B. Kelley, Richard W. Weinstein, and Sherwood M. Gagliano, *Archaeological Investigations on the Outer Continental Shelf: A Study within the Sabine River Valley, Offshore Louisiana and Texas* (available from the Minerals Management Service, United States Department of the Interior, 12203 Sunrise Valley Drive, Reston, VA 22091). This study builds on and field tests assumptions of the Gulf of Mexico baseline study, *Cultural Resource Evaluation of the Northern Gulf of Mexico Continental Shelf and Sedimentary Studies of Prehistoric Archaeological Sites.* Various regional baseline studies also have been conducted by the Minerals Management Service (list available at the above address).

36 CFR Part 60, *National Register of Historic Places.* This regulation describes the procedures for nominations to the National Register.

36 CFR Part 66, *Archaeological and Historic Preservation Act; Department of the Interior Regulations.* Consultations with the Secretary, under the Archaeological and Historic Preservation Act (P.L. 93–291), will be addressed in these regulations scheduled to be proposed by the National Park Service during 1988.

36 CFR Part 79, *Curation of Federally Owned and Administered Archaeological Collections* (proposed on August 28, 1987; see **Federal Register,** 52 FR 32740). These regulations implement Federal curatorial requirements of the Act and the Archaeological Resources Protection Act.

36 CFR Part 800, *Protection of Historic Properties.* These regulations, issued by the Advisory Council, implement the requirement in Section 106 of the Act that Federal agencies consider the effects of their undertakings on historic properties.

*Guidelines for Local Surveys,* National Register Bulletin Number 24. This publication provides guidance to communities, organizations, Federal and State agencies, and individuals interested in undertaking surveys of historic resources.

Dunnell, Robert C., and William S. Dancey; The Siteless Survey: A Regional Scale Data Collection Strategy; in *Advances in Archaeological Method and Theory,* Vol. 6, pp. 267–287, edited by Michael B. Schiffer, Academic Press, New York; 1983.

Kohler, Timothy A., and Sandra C. Parker; Predictive Models for Archaeological Resource Location; in *Advances in Archaeological Method and Theory,* Vol. 9, pp. 397–452; edited by Michael B. Schiffer; Academic Press, Orlando; 1986.

Mueller, James W.; The Use of Sampling in Archaeological Survey; in *Memoirs, Society for American Archaeology;* No. 28; 1974.

Mueller, James W. (editor); *Sampling in Archaeology;* University of Arizona Press, Tucson; 1975.

Nance, Jack D.; Regional Sampling in Archaeological Survey: The Statistical Perspective; in *Advances in Archaeological Method and Theory;* Vol. 6, pp. 289–356; edited by Michael B. Schiffer; Academic Press, New York; 1983.

Redman, Charles L.; Archaeological Sampling Strategies; *Addison-Wesley Module in Anthropology;* No. 55; 1974.

*Quantifying the Present and Predicting the Past: Theory, Method, and Application of Archaeological Predictive Modeling;* Bureau of Land Management, United States Department of the Interior; 1987. This document addresses in considerable detail various theories and approaches to predictive modeling.

*Section 106, Step-by-Step.* Published by the Advisory Council, this booklet describes the procedures to be followed in complying with the requirement of Section 106 of the Act and implementing regulations 36 CFR Part 800.

*Preparing Agreement Documents.* Published by the Advisory Council, this booklet describes suggested mitigation measures to be used in avoiding or minimizing adverse effects on historic properties.

*Treatment of Archaeological Properties.* This publication, addressing the broad range of treatments available for archaeological properties, was prepared by the Advisory Council on Historic Preservation.

*Archaeological Survey: Methods and Uses.* Designed for non-archeologists, this manual addresses the methods and objectives of archaeological survey. For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

*Section 110(b)*

*Requirement:* "Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, a historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be

deposited, in accordance with section 101(a), in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference."

*Applicability*: Section 110(b) applies to all Federal agencies whose action or assistance results in the substantial alteration or demolition of a historic property, whether such property is on Federal or non-Federal land. Although not directed under 110(b), agencies may require non-Federal parties with Federal licenses, permits, or other entitlements to conduct activities similar to those required in 110(b) under the authority of Section 106 of the Act and Section 110(d).

*Discussion*: (a) Section 110(b) requires agencies to ensure that historic properties subject to damage or other alteration by undertakings they conduct or assist are documented prior to such alteration. The *Secretary's Standards for Architectural, Engineering, and Archeological Documentation* provide documentation guidance that will assist agencies in meeting this requirement.

(1) *Determining the need for recordation.* In order to "initiate steps to assure that timely steps are taken to make or have made appropriate records," agencies should determine whether recordation is needed, and, if so, the appropriate level and kind of recordation necessary, in accordance with established standards for property specific recordation in consultation with the SHPO, Advisory Council, and other concerned parties under 36 CFR Part 800. Consultations with the Secretary under the Archeological and Historic Preservation Act (Pub. L. 93–291) also may be appropriate to determine the need for recordation. Pub. L. 93–291 will be implemented in 36 CFR Part 66, *Archeological and Historic Preservation Act; Department of the Interior Regulations*, to be proposed by the Department of the Interior in 1988. The requirement in 110(b) also applies in cases when an agency proposes to dispose of or destroy artifacts, records, or remains related to a historic property. 36 CFR Part 79, *Curation of Federally Owned and Administered Archeological Collections* (proposed on August 28, 1987; see **Federal Register** 52 FR 32740), provides further information on requirements for disposition or destruction of archeological materials.

(2) *Level and kind of documentation.* The level and kind of documentation required under Section 110(b) vary depending on the nature of the property, its relative significance within identified historic context(s), and the nature of an undertaking's effects. For example, architectural recording can range from taking a few photographs to conducting a detailed program of photogrammetry or the preparation of measured drawings accompanied by a description of the building's materials, components, and construction techniques. Archeological data recovery can range from recording a site's surface features to conducting extensive excavation and detailed laboratory analysis. A single property may require more than one kind of recording. Architectural and engineering documentation will usually result in text reports, photographs and drawings. Archeological documentation will usually result in descriptive, comparative, and analytical reports, and documentation records for objects. Oral historical documentation will normally result in text reports, photographs, audio tapes and transcripts, and sometimes videotapes. Documentation includes, but is not limited to:

(i) Recording significant historical information about a property and the historic context(s) it represents;

(ii) Recording significant architectural plans and features;

(iii) Recording significant engineering details;

(iv) Recording significant landscaping details;

(v) Acquisition of significant oral historical information related to the property or its context;

(vi) Archeological data recovery; and,

(vii) Preserving original plans and specifications for historic buildings.

(b) *Repositories.* Section 110(b) requires that documentation be deposited in the "Library of Congress or with other appropriate agency as may be designated by the Secretary, for future use and reference." The Secretary may designate appropriate agencies for the deposition of records when it is not appropriate to use the Library of Congress. Whenever records are filed with the Library of Congress or an alternative repository, copies of such records should be filed with the SHPO if that official so requests. For the following types of records, the Secretary has designated appropriate alternative repositories.

(1) *Architectural and engineering records*—(i) *HABS/HAER Collections in the Library of Congress.* As a rule, and always in the case of an NHL, architectural and engineering records, developed in accordance with the *Secretary's Standards for Architectural and Engineering Documentation*, should be deposited in the Historic American Buildings Survey (HABS) Collection or the Historic American Engineering Record (HAER) Collection of the Library of Congress. Such records are to be first sent by the agency to the National Park Service where they will be processed for transmittal to the Library of Congress. Agencies should forward documentation to the Chief, Historic American Buildings Survey/Historic American Engineering Record, National Park Service, United States Department of the Interior, Washington, DC 20013–7127.

(ii) *Alternative repositories.* An alternative repository, such as a State or local archive, may be used in lieu of the Library of Congress if an agency official, the SHPO, and the Advisory Council agree, through the process for compliance with section 106 of the Act and 36 CFR Part 800, that the nature of a property of State or local significance and the nature of the necessary documentation so warrant.

(2) *Archeological records.* Archeological records, including original field notes, photographs, computerized records, and other documents directly descriptive of the work accomplished and its results, may be filed with the National Anthropological Archives of the Smithsonian Institution, the SHPO, and/or appropriate academic institutions and museums pursuant to agreements reached in accordance with Section 106 of the Act and 36 CFR Part 800, in lieu of deposition with the Library of Congress. Agencies should ensure that the institution with which records are deposited meets the standards established under Section 101(a)(7)(A) of the Act and 36 CFR Part 79. 36 CFR Part 79 (proposed on August 28, 1987; see **Federal Register**, 52 FR 32740) will implement the provision of the Act requiring that significant prehistoric and historic artifacts, and associated records, be deposited in an institution with adequate long-term curatorial capabilities. Until 36 CFR Part 79 is promulgated, agencies should consult with the Departmental Consulting Archeologist, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127 concerning appropriate depositories. Agencies should also consult with the Departmental Consulting Archeologist to determine what information would be appropriate to deposit with the National Archeological Data Base (see summary of section 110(a)(2) for more description of National Archeological Data Base).

(3) *Oral historical records.* Oral historical records, including original tapes, transcripts, and field notes, should be filed with the Library of Congress' American Folklife Center, with a similar regional repository, and/or with the State Folklorist. With the concurrence of the American Folklife Center, alternative repositories agreed upon in accordance with Section 106 of

the Act and 36 CFR Part 800 may be used in lieu of the Library of Congress.

(c) For all projects, summary descriptive and analytic reports should be published, duplicated in manuscript form, or stored and made available to researchers electronically or in microform. For projects of substantial scale, or where the research significance of recovered information otherwise warrants, scholarly synthetic and analytical reports should always be published, either in professional journals or as separate monographs. Publication of interpretive reports for the public, and preparation of interpretive films, videotapes, and slide shows are also recommended. Agencies are strongly urged to deposit technical reports, such as historic structures reports, with the National Technical Information Service of the Department of Commerce.

*Related Requirements and Guidance:* The following additional guidance is recommended:

*The Secretary of the Interior's Standards and Guidelines for Historical Documentation*, 48 FR 44728 (See Introduction, Part I of these Guidelines, and the definition of the *Secretary's Standards*)

*The Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation*, 48 FR 44730 (See Introduction, Part I of these Guidelines, and the definition of the *Secretary's Standards*)

*The Secretary of the Interior's Standards and Guidelines for Archeological Documentation*, 48 FR 44734 (See Introduction, Part I of these Guidelines, and the definition of the *Secretary's Standards*)

36 CFR Part 66, *Archeological and Historic Preservation Act; Department of the Interior Regulations*. These regulations, to be proposed by the National Park Service in 1988, implement the Archeological and Historic Preservation Act (P.L. 93-291).

36 CFR Part 79, *Curation of Federally Owned and Administered Archeological Collections* (proposed on August 28, 1987; see **Federal Register**, 52 FR 32740). These regulations implement Federal curatorial requirements of the Act and the Archaeological Resources Protection Act.

36 CFR Part 800, *Protection of Historic Properties*. These regulations, issued by the Advisory Council, implement the requirement in section 106 of the Act that Federal agencies consider the effects of their undertakings on historic properties.

*Treatment of Archeological Properties*. This publication, addressing the broad range of treatments available for archeological properties, was prepared by the Advisory Council on Historic Preservation.

*Preparing Agreement Documents*. Published by the Advisory Council, this booklet describes suggested mitigation measures to be used in avoiding or minimizing adverse effects on historic properties.

*Section 110(c)*

*Requirement:* "The head of each Federal agency shall, unless exempted under section 214, designate a qualified official to be known as the agency's 'preservation officer' who shall be responsible for coordinating that agency's activities under this Act. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(g)."

*Applicability:* Section 110(c) applies to all Federal agencies, except those exempted by the Advisory Council under Section 214 of the Act. The Advisory Council set forth the procedures for exemptions in *Guidelines for Exemptions under Section 214 of the National Historic Preservation Act*, published in the **Federal Register** on October 18, 1982 (47 FR 46347-46348).

*Discussion:* (a) *Qualifications and Training*. Agency officials designated as Federal Preservation Officers should have substantial experience administering Federal historic preservation activities. It also is desirable that the Federal Preservation Officer meet the definition of professional (see Part II of these Guidelines). The Department of the Interior will, from time to time, make available training to Federal Preservation Officers. This training, which will be coordinated with the training efforts of other agencies and organizations, including the Advisory Council's training program for Federal agency Section 106 responsibilities, will be designed to address all Federal agency historic preservation responsibilities mandated in the Act.

(b) *Position within agency structure*. An FPO may have other agency duties in addition to historic preservation coordination, depending on the magnitude and degree of the agency's historic preservation activities and responsibilities. FPOs should have agencywide authority in order to carry out their section 110 responsibilities effectively. In order to meet the requirement for "coordinating that agency's activities under this Act," the FPO should occupy a position in the agency's organizational structure from which he or she can effectively monitor agency compliance with the requirements of the Act. Administrative systems should be established to ensure that the FPO can review all agency activities that might affect historic properties. FPOs should be authorized to participate in the establishment of identification and management procedures for historic properties, in nominating properties to the National Register, in making National Register eligibility determinations, in consultations with the Advisory Council and SHPOs, and in training agency staff with reference to their historic preservation responsibilities.

In agencies where significant preservation responsibilities rest with regional or field offices, the agency head should appoint qualified FPOs at those levels. Such FPOs should ensure that their actions and conduct of historic preservation activities are coordinated with, and consistent with, those of the central office FPO for that agency.

(c) *Use of professionals*. It is expected that the FPO will be supported by adequate professional staff, as needed. A Federal agency's historic preservation program should be developed and implemented by or under the supervision of qualified professionals in appropriate historic preservation disciplines, although the use of paraprofessionals, students, and avocational organizations under professional supervision is encouraged in the implementation of the program.

*Related Requirements and Guidance:* The following additional guidance is recommended:

*The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, Professional Qualifications Standards*, 48 FR 44738 (See Introduction, Part I of these Guidelines, and the definition of the *Secretary's Standards*).

*Guidelines for Exemptions under Section 214 of the National Historic Preservation Act*, published in the **Federal Register** by the Advisory Council on October 18, 1982 (47 FR 46347-46348).

*Section 110(d)*

*Requirement:* "Consistent with the agency's mission and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this Act and, give consideration to programs and projects which will further the purposes of this Act."

*Applicability:* Section 110(d) applies to all Federal agencies.

*Discussion:* Section 110(d) requires that, consistent with their missions and mandates, all Federal agencies carry out their programs so that historic preservation interests are affirmatively addressed. Although most Federal agencies have a primary purpose other than historic preservation, it is reasonable to expect that they also view themselves as multiple resource managers responding to diverse economic, social and environmental concerns—including historic preservation.

(a) *Purposes of the Act.* 110(d) requires agencies to carry out programs and projects in accordance with the "purposes of this Act." Section 2 of the Act states that it "shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

(1) Use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

(2) Provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;

(3) Administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

(4) Contribute to the preservation of non-federally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

(5) Encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and,

(6) Assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities."

(b) *Carrying out programs and projects.* In order to meet the requirement to "carry out agency programs and projects in accordance with the purposes of this Act" consistent with the policy stated in Section 2 of the Act, agencies should ensure that their programs and projects will not conflict with, and where possible will advance, the Act's purposes. Agencies should:

(1) Solicit the opinions of SHPOs about Federal actions and plans that might affect historic properties;

(2) Seek ways to harmonize their actions with the preservation of historic properties, and put such properties to productive uses in the public interest;

(3) Encourage others, including non-Federal agencies and foreign governments with which the agency interacts, to give due consideration to historic properties;

(4) Identify historic properties owned by the agency, and take appropriate steps to protect, preserve, and rehabilitate them;

(5) Ensure that agency actions, and the actions of those to whom the agency provides assistance, permits, licenses, or approvals, are preceded by effective planning to identify and avoid effects to historic properties, or to mitigate those effects if they are unavoidable;

(6) Design agency programs and projects to foster the rehabilitation and appropriate use, including re-use, of historic buildings and structures; and,

(7) Design agency programs and projects to foster the cost effective management of historic properties.

(c) *Programs and projects to further the Act's purposes.* In order to "give consideration to programs and projects which will further the purposes of this Act," agencies should, whenever it is within their administrative discretion (see section 110(g)), participate in programs specifically designed to advance the policy stated in Section 2 of the Act, such as:

(1) Provision of financial and technical assistance to historic preservation activities and to the adaptive use of historic properties;

(2) Demonstration historic preservation projects and cooperative historic preservation programs with non-Federal entities and foreign governments;

(3) Special projects to study, document, and make productive use of historic properties under the agency's ownership;

(4) Cooperation with non-Federal entities in the identification, protection, study, documentation, and appropriate use of historic properties;

(5) Use of agency programs and financial and technical assistance in the rehabilitation and adaptive use of historic buildings and structures;

(6) Use of agency programs and financial and technical assistance in the effective utilization of archeological information; and,

(7) Cooperative programs with SHPOs, local governments, and Indian tribes, if appropriate, in the identification, recording, study, documentation, and appropriate use of historic properties, specifically including cooperation with the SHPOs in their development and maintenance of statewide inventories of historic properties and in their administration of the Comprehensive Statewide Historic Preservation Plans.

(d) *Balancing mission and purposes of the Act.* The requirement that actions be made in accordance with the Act's purposes but also in a manner "consistent with the agency's mission and mandates" means that agencies, in their decisionmaking, must balance historic preservation considerations, specifically those outlined in Section 2 of the Act, against any conflicting mission requirements. It is not the intent of Section 110(d) to make the purposes of the Act paramount over other public interests.

(1) *Section 106 of the Act.* One of the specific requirements that complements the general requirement in section 110(d) of the Act is found in section 106 of the Act. Compliance with section 106 of the Act and implementing regulations, 36 CFR Part 800, provides an important mechanism for balancing agency mission requirements and historic preservation with respect to agency undertakings. In carrying out section 106 of the Act responsibilities, agencies should apply the standards and relevant sections of the section 110 Guidelines. Under section 106 of the Act, Federal agencies having direct or indirect jurisdiction over a proposed Federal, federally licensed, or federally assisted undertaking shall take into account the effect of the undertaking on any property that is included in or eligible for inclusion in the National Register. As part of this consideration, Federal agencies must provide the Advisory Council with a reasonable opportunity to comment with regard to such undertaking. The procedures for complying with section 106 of the Act are found in 36 CFR Part 800.

(2) *Section 202(a)(6) of the Act.* With respect to entire agency programs, agencies are encouraged to seek the general assistance of the Advisory Council, which is authorized under section 202(a)(6) to "review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this Act." The Advisory Council will use the *Section 110 Guidelines* as a basis for evaluating relevant program areas.

*Related Requirements and Guidance:* The following additional guidance is recommended:

*The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation,* 48 FR 44716 (See Introduction, Part 1 of these Guidelines, and the definition of the *Secretary's Standards*)

36 CFR Part 60, *National Register of Historic Places.* This regulation describes the procedures for nominations to the National Register.

36 CFR Part 800, *Protection of Historic Properties.* These regulations, issued by the Advisory Council, implement the requirement in Section 106 of the Act that Federal agencies consider the effects of their undertakings on historic properties.

*Section 106 Step by Step.* Published by the Advisory Council, this booklet describes the procedures to be followed in complying with the requirement of Section 106 of the Act and implementing regulations 36 CFR Part 800.

*Section 110(e)*

*Requirement:* "The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced."

*Applicability:* Section 110(e) applies to the Secretary of the Interior.

*Discussion:* With respect to properties being transferred for historic monument purposes, the regulations in 41 CFR 101–47.308–3 must be followed. Under these regulations, the Secretary determines whether an applicant's proposed use of a property is compatible with its historic character, and approves the applicant's architectural and financial plans for rehabilitation, restoration, and maintenance of the property. The Secretary also ensures that the grantee complies with the terms of a conveyance in perpetuity. Reviews by the Secretary under section 110(e) are to be conducted in complement with, or prior to, the Advisory Council's review of the transfer proposal under the requirement of section 106 of the Act.

There is no corresponding regulatory requirement for the Secretary to review agencies' plans for historic properties that may be disposed of by means other than that authorized by the historic monument provisions of the Federal Property and Administrative Services Act of 1949, as amended. However, the Secretary, when requested to review such plans, generally will adopt and approve the transferee's plans if such plans are the subject of a memorandum of agreement executed pursuant to 36 CFR Part 800. If no agreement is reached between consulting parties as a result of the 36 CFR Part 800 process, the Secretary will follow the procedures established in accordance with 41 CFR 101–47.308–3).

*Related Requirements and Guidance:*

41 CFR Part 101–47, *Utilization and Disposal of Real Property (refer to subsection 101–47.308–3).*

40 U.S.C. 484(k)(3), *Federal Property and Administrative Services Act of 1949, as amended.*

*Section 110(f)*

*Requirement:* "Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking."

*Applicability:* Section 110(f) applies to all Federal agencies whose undertakings may directly and adversely affect an NHL, whether such property is on Federal or non-Federal land.

*Discussion:* NHLs are designated by the Secretary under the authority of the Historic Sites Act of 1935. The 1935 Act authorizes the Secretary to identify historic and archeological sites, buildings, and objects which "possess exceptional value as commemorating or illustrating the history of the United States."

(a) *Minimizing harm to NHLs.* Section 110(f) of the Act further affirms the special meaning of these properties of national significance by requiring that Federal agencies exercise a higher standard of care when considering undertakings that may directly and adversely affect NHLs. In those rare cases when an agency's undertaking affects an NHL, and in order to meet the requirement that agencies, "to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark," agencies should make every possible effort to consider prudent and feasible alternatives to adversely affecting the NHL. The requirement in this section does not supersede the requirement in Section 106 of the Act, but complements it by setting a higher standard for agency planning in relationship to NHLs before the agency brings the matter to the Advisory Council.

Since NHLs are valuable to the Nation for their ability to commemorate and illustrate its history, some management options commonly used with respect to properties having State and local levels of significance under Section 106 of the Act, such as data recovery, documentation before demolition, and some kinds of adaptive use, may be inappropriate for the management of NHLs. Agencies should seek to preserve NHLs in place and as unchanged as possible, so that the public can continue to appreciate them and the history they commemorate and illustrate. The requirement that Federal agencies take into account the effects of their actions on properties of State and local significance is not in any way minimized or reduced because of the need to exercise special care with respect to preserving the unique commemorative and illustrative qualities of NHLs.

Consistent with 110(f), agencies should seek prudent and feasible alternatives that would avoid or minimize harm to an NHL. Where the alternatives may be too costly or decrease the effectiveness of meeting the undertaking's goals and objectives, the agency is faced with the need to balance these goals and objectives with the intent of 110(f). In doing so, the agency should consider:

(1) the magnitude of the undertaking's harm to the historical, archeological and cultural qualities of the NHL;

(2) the national significance of the qualities of the NHL;

(3) the public interest in the undertaking as proposed; and,

(4) the effect which a mitigation action would have on meeting the goals and objectives of the undertaking.

(b) *Advisory Council section 106 provisions for NHLs.* The Advisory Council has also included in its section 106 regulations, 36 CFR Part 800, specific provisions that implement section 110(f). Section 800.10 of the regulations provides that, in cases involving NHLs:

(1) the Advisory Council shall be included in any consultation following a determination by the Federal agency that a Federal or federally assisted undertaking will have an adverse effect on historic properties;

(2) the Advisory Council may reuqest the Secretary to provide a report to the Council detailing the significance of the affected property, describing the effects of the undertaking on the property, and recommending measures to avoid, minimize or mitigate adverse effects; and,

(3) the Advisory Council shall report the outcome of the section 106 process to the President, the Congress, the Secretary and the head of the agency responsible for the undertaking.

*Related Requirements and Guidance: The Secretary of the Interior's Standards and Guidelines for*

*Archeology and Historic Preservation,* 48 FR 44716 (See Introduction, Part I of these Guidelines, and the definition of the *Secretary's Standards*)

36 CFR Part 800, *Protection of Historic Properties.* These regulations, issued by the Advisory Council, implement the requirement in section 106 of the Act that Federal agencies consider the effects of their undertakings on historic properties.

*Section 110(g)*

*Requirement:* "Each Federal agency may include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency. The eligible project costs may also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this Act, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit."

*Applicability:* Section 110(g) applies to all Federal agencies incurring costs of preservation activities, and to all agencies that issue licenses or permits.

*Discussion:* (a) *Reasonable preservation costs.* The intent of section 110(g) is to ensure that historic preservation activities are eligible for agency support. It is not to be construed as requiring an investment in preservation greater than what is feasible and prudent for a specific project. Where preservation activity is a condition of obtaining a Federal license or permit, the licensee/permittee may be charged for reasonable preservation costs. The term "reasonable" should take into consideration the preservation priorities of the agency, the SHPO, and local governments and Indian tribes where applicable. This consideration should also include the management factors outlined in the guidance for section 110(a)(1). Because it is difficult to establish fair standards that would be applicable in all cases, "reasonable costs" should not be determined using inflexible criteria, such as a flat fee or a standard percentage of a budget, but rather should be determined on a case-by-case basis, unless otherwise stipulated in law. In determining whether preservation efforts are appropriate in given situations and, therefore, whether expenses are reasonable, agencies should refer to the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* and develop scopes of work for such activities in consultation with the SHPO and other interested persons, and in consideration of the Comprehensive Statewide Historic Preservation Plan, using the procedures outlined in 36 CFR Part 800.

(b) In procuring preservation service, the following guidelines should be followed, subject to applicable agency contracting and procurement requirements:

(1) Whenever possible, preservation services should be combined and procured in large units, rather than being broken down into many individual procurement actions. Combined procurements enhance efficiency and coordination among preservation activities. For example, where an agency anticipates the need for numerous small identification or documentation projects in a given State or region, it will normally be most efficient and effective to offer a single open-ended contract for such services covering a prescribed period of time, rather than offering a new contract for each individual project.

(2) Normally, services should be procured on the basis of competitive proposals offered in response to requests for proposals. A technical evaluation panel composed of qualified professionals from within or outside the agency should be used to evaluate and rank proposals based on merit, and negotiations concerning the price of the services should be undertaken with the highest ranking offerers. Preservation services generally should not be procured on the basis of price bid only, because the precise services needed can seldom, if ever, be defined clearly and certainly enough to make price the only pertinent variable.

(3) In some instances, sole-source procurement may be appropriate, for example where it is certain that only one potential contractor has the requisite qualifications for the work to be done. Where an agency has a continuing need for a particular set of preservation services in a particular region, for example, and there is only one qualified organization in the region, sole-source procurement may be justified. Even in such a circumstance, however, it is recommended that the agency periodically request proposals for the conduct of the needed work, to determine whether the sole source used in the past continues to be the only qualified offerer.

(4) Where the work to be procured involves planning, identification, and evaluation of historic properties, the SHPO should be given the opportunity to participate both in developing the scope of work and on the technical evaluation panel, and the work should conform to the *Secretary's Standards for Preservation Planning, Identification, and Evaluation.*

(5) Where the work to be procured is designed to carry out the intent of an agreement developed pursuant to 36 CFR Part 800, the consulting parties involved in developing the agreement should be given the opportunity to participate in developing the scope of work and in the technical evaluation panel. Scopes of work should be developed in consultation with the SHPO and should take into account the Comprehensive Statewide Historic Preservation Plan. The National Park Service can also offer assistance in scope of work development and in proposal evaluation. Agencies should contact the Chief, Interagency Resources Division (see address in the first paragraph of Part IV of these Guidelines) to determine which office of the Service can best provide assistance on a case by case basis depending on the expertise necessary.

(6) Where an agency procures services for the conduct of archeological data recovery, the scope of work should:

(i) Ensure that recovery will be focused on significant, defensible research topics;

(ii) Ensure that the project will be sufficiently flexible to respond to unexpected discoveries and unanticipated research topics;

(iii) Ensure that offerers are encouraged to offer creative proposals about how best to meet the research and management needs of the project, and are not unduly limited to technical prescriptions;

(iv) Be consistent with the *Secretary of the Interior's Standards and Guidelines for Archeological Documentation,* taking into account other pertinent Advisory Council and Department of the Interior guidance (recommendations concerning the scope of work may be obtained by contacting the Departmental Consulting Archeologist, National Park Service, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127); and,

(v) Take into account the Comprehensive Statewide Historic Preservation Plan and other relevant SHPO guidance.

(7) Where an agency procures services for the conduct of architectural or engineering documentation, the scope of work should be consistent with the *Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation;* the recommendations of the HABS/HAER Division of the National Park Service on scopes or work may be obtained by

contacting the Chief, Historic American Buildings Survey/Historic American Engineering Record, National Park Service, United States Department of the Interior, Washington, DC 20013-7127.

(8) Where an agency procures services for the conduct of historical documentation, the scope of work should be consistent with the *Secretary of the Interior's Standards and Guidelines for Historical Documentation.*

(9) The cost of caring for, documenting, and otherwise preserving artifacts, records and remains related to historic properties may be regarded as an eligible project cost. 36 CFR Part 79, *Curation of Federally Owned and Administered Archeological Collections* (proposed on August 28, 1987; see **Federal Register,** 52 FR 33740), includes additional information concerning funding for curation of archeological artifacts, records, and remains.

*Related Requirements and Guidance:* 36 CFR Part 79, *Curation of Federally Owned and Administered Archeological Collections* (proposed on August 28, 1987; see **Federal Register,** 52 FR 32740). These regulations implement Federal curatorial requirements of the Act and the Archeological Resources Protection Act.

36 CFR Part 800, *Protection of Historic Properties.* These regulations, issued by the Advisory Council, implement the requirement in section 106 of the Act that Federal agencies consider the effects of their undertakings on historic properties.

Office of Management and Budget Circular A-87, *Cost Principles Applicable to Grants and Contracts with State and Local Governments.*

Office of Management and Budget Circular A-102, *Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.*

*Section 110(h)*

*Requirement:* "The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts not to exceed $1,000 and provide citations for special achievements to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary."

*Applicability:* Section 110(h) applies to the Secretary of the Interior.

*Discussion:* The Secretary, in partnership with the Advisory Council, has established the National Historic Preservation Awards to recognize achievements in historic preservation. Inquiries concerning how Federal agencies can participate in the awards program should be addressed to the Advisory Council at the address in the first paragraph of Part IV of these Guildelines.

*Section 110(i)*

*Requirement:* "Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969, and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act."

*Applicability:* Section 110(i) applies to all Federal agencies.

*Discussion:* Agencies should ensure that their actions under section 110 are fully coordinated with their programs of environmental review under the National Environmental Policy Act (NEPA), as well as with their programs for compliance with section 106 of the Act, 36 CFR Part 800, the Archaeological Resources Protection Act, and such agency-specific legislation as section 4(f) of the Department of Transportation Act, the Federal Land Policy and Management Act, the National Forest Management Act, and the Housing and Community Development Act. To the maximum extent possible, agencies should plan their historic preservation activities in such a way that each project satisfies all pertinent statutory requirements. Doing this eliminates the need for redundant data collection efforts.

Agencies should ensure that when preparation of an environmental document is required by NEPA, its preparation is fully coordinated with the agency's implementation of sections 106 and 110 of the Act and these guidelines. Where appropriate, the agency's historic preservation activities should be described, summarized, or referenced in such documents.

The *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* provide guidance to assist agencies in carrying out historic preservation activities in a manner that is consistent with these various statutory requirements. 36 CFR 800.14 provides direction regarding integration of NEPA and section 106 requirements.

*Related Requirements and Guidance:* 36 CFR Part 800, *Protection of Historic Properties.* These regulations, issued by the Advisory Council, implement the requirement in section 106 of the Act that Federal agencies consider the effect of their undertakings on hstoric properties.

*Section 110(j)*

*Requirement:* "The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security."

*Applicability:* Section 110(j) applies to the Secretary of the Interior.

*Discussion:* The regulations promulgated under this requirement, *Waiver of Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act,* can be found in the Code of Federal Regulations under 36 CFR Part 78. It is intended that the waiver, in whole or in part, provided for in these regulations will be used only in extreme circumstances and after due consideration of any measures that may feasibly be taken to preserve the historic properties within the threatened area or disaster zone.

*Related Requirements and Guidance:* 36 CFR Part 78, *Waiver of Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act.* This regulation establishes procedures under which the requirements of section 110 may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the National security.

36 CFR Part 800, *Protection of Historic Properties.* The Advisory Council has included a provision in 36 CFR 800.12 whereby agencies may comply with the requirements of 36 CFR Part 78 in lieu of 36 CFR Part 800.

**Federal Register** Notice (50 FR 7622), *Treatment of Historic Properties Under Emergency Conditions Pursuant to Section 106 of the National Historic Preservation Act.* The Advisory Council provides guidance in this notice concerning the application of section 106 during emergencies.

[FR Doc. 88-3211 Filed 2-16-88; 8:45 am]
BILLING CODE 4310-70-M

## National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by

the National Park Service before February 6, 1988. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 3, 1988.

**Carol D. Shull,**

*Chief of Registration, National Register.*

**COLORADO**

**Phillips County**

Holyoke, *Heginbothan, W. E., House,* 539 S. Baxter

**DISTRICT OF COLUMBIA**

**Washington**

*House at 2437 Fifteenth Street, NW,* 2437 Fifteenth St., NW

**KENTUCKY**

**Barren County**

Cave City, *Wigwam Village No. 2,* NW side US 31 W 1.6 mi. NE of junction with KY 70

**Campbell County**

Newport, *Campbell County Courthouse at Newport,* Fourth and York Sts.

**Fayette County**

Lexington, *Lexington Dry Goods Company Building,* 249–251 E. Main St.

**Fulton County**

*White Site (15FU24)*

**Jefferson County**

*Second and Market Streets Historic District (Market and Jefferson Streets MRA)*

Louisville, *Savoy Historic District (Market and Jefferson Streets MRA),* 209–221 W. Jefferson St.

Louisville, *Third and Jefferson Streets Historic District (Market and Jefferson Streets MRA),* 301–317 S. Third St. and 232–244 W. Jefferson St.

Louisville, *Third and Market Streets Historic District (Market and Jefferson Streets MRA),* 201–219 S. Third St. and 224–240 W. Market St.

Louisville, *Tyler Hotel (Market and Jefferson Streets MRA),* 229–245 W. Jefferson St.

**Webster County**

Sebree, *McMullin—Warren House,* 301 W. Main St.

**NEW HAMPSHIRE**

**Hillsborough County**

Hancock, *Hancock Village Historic District,* Main St. roughly between Norway Pond La. and Old Dublin Rd., and Bennington and Norway Hill Rds.

Manchester, *Hubbard, Thomas Russell, House,* 220 Myrtle St.

**Merrimack County**

Hill, *Murray Hill Summer Home District,* Murray Hill Rd. roughly between Cass Mill and Lynch Rds.

**Strafford County**

*Wiswall Falls Mill Site*

**NORTH CAROLINA**

**Guilford County**

Greensboro, *Hoskins House Historic District,* Intersection of New Garden Rd. and US 220

**TENNESSEE**

**Knox County**

Knoxville, *General Building,* 625 Market St.

**Montgomery County**

Clarksville, *Smith, Christopher H., House,* Spring and McClure Sts.

**Wayne County**

Clifton, *First Presbyterian Church of Clifton,* Main St.

**TEXAS**

**Dallas County**

Dallas, *Oak Lawn Methodist Episcopal Church, South,* 3014 Oak Lawn Ave.

[FR Doc. 88–3332 Filed 2–16–88; 8:45 am]

BILLINB CODE 4310–70–M

## INTERSTATE COMMERCE COMMISSION

**[Finance Docket No. 31220]**

### Ohio Southern Railroad Co.; Trackage Rights; Exemption

Brockway Realty Corporation (Brockway) [1] has agreed to grant local and overhead trackage rights to Ohio Southern Railroad Company (Ohio Southern), between Milepost 18.2 and Milepost 19.4, in or near Zanesville, OH. The trackage rights became effective on February 1, 1988.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

*Decided:* February 4, 1988.

[1] Brockway owns but does not operate over the approximately 1.2 miles of rail line involved here. However, in Finance Docket No. 29940, *Brockway, Inc.—Exemption from 49 U.S.C. Subtitle IV* (not printed), served May 28, 1982, the Commission recognized the status of Brockway's predecessor as a railroad. For this reason, the transaction is a trackage rights agreement between carriers to which the exemption from 49 U.S.C. 11343 at 49 CFR 1180.2(d)(7) is applicable.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

**Noreta R. McGee,**

*Secretary.*

[FR Doc. 88–3151 Filed 2–16–88; 8:45 am]

BILLING CODE 7035–01–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

*Background:* The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

*List of Recordkeeping/Reporting Requirements Under Review:* As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

*Comments and Questions:* Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Coments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor,

200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

**New**

Employment and Training Administration
Occupational Code Request
ETA 741
As needed
State or local governments
52 respondents; 52 burden hours; 1 form
Provided as a public service to obtain occupational codes and titles for jobs not included in the DOT.

**Extension**

Mine Safety and Health Administration
Record of Examinations for Hazardous Conditions
1219-0083
Each shift
Businesses and other for profit; small businesses or organizations
4,067 respondents; 2,196,180 burden hours
Requires coal mine operators to keep records of the results of mandatory examinations for hazardous conditions of active surface work areas and active surface installations. Any hazardous condition detected must be entered into a report of such examination along with a description of any corrective actions taken.

**Extension**

Occupational Safety and Health Administration
Hazard Communication, OSHA 245, 1218-0072
Recordkeeping; On occasion
Businesses and other for-profit; Federal agencies or employees; Small businesses or organizations
2,952,000 Responses; 54,180,000 burden hours, 1 form
The Hazard Communication standard requires all employers to establish hazard communication programs to transmit information on the hazards associated with chemicals to their employees by means of container labels, material safety data sheets and training programs.

*Action Taken:* Burden hours associated with preparation of written hazard communication programs have been reestimated. As a result, a reduction in burden hours originally taken to reflect technical assistance voluntarily provided by trade associations to assist employers in the preparation of these programs has been eliminated. This action increases the annual burden hour estimate for program development in each affected firm by six hours for professional time and one and a half hours for clerical time.

Signed at Washington, DC this 10th day of February, 1988.

**Paul E. Larson,**

*Departmental Clearance Officer.*

[FR Doc. 88-3293 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-26-M

## All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to the requirements of Public Law 95-602, I hereby certify that the Consumer Price Index for All Urban Consumers rose by 4.5 percent between October 1986 and October 1987 from a level of 330.5 (1967=100) in October 1986 to a level of 345.3 (1967=100) in October 1987. Signed at Washington, DC, on the 9th day of February 1988.

**Ann McLaughlin,**

*Secretary of Labor.*

[FR Doc. 88-3294 Filed 2-16-88; 8:45 am]

BILING CODE 4510-24-M

## Employment and Training Administration

## Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 29, 1988.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 29, 1988.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC this 8th day of February 1988.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

APPENDIX

| Petitioner (Union/Workers/Firm) | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| A.O. Smith Corp. (IAM) | Milwaukee, WI | 2/8/88 | 1/13/88 | 20,443 | Automotive Frames. |
| Fairbanks Morse (USA) | Beloit, WI | 2/8/88 | 1/19/88 | 20,444 | Engine Accessories. |
| Fairbanks Morse Engine Accessories (USA) | Roscoe, IL | 2/8/88 | 1/19/88 | 20,445 | Engine Accessories. |
| G.H. Bass & Company (Workers) | Rumford, ME | 2/8/88 | 1/15/88 | 20,446 | Shoes. |
| General Instruments—Tocom Div. (Workers) | Irving, TX | 2/8/88 | 1/22/88 | 20,447 | TV Converters. |
| General Instruments—Tocom Div. (Workers) | Brownsville, TX | 2/8/88 | 1/22/88 | 20,448 | TV Converters. |
| JPI Transportation Products, Inc. (MESA) | Cleveland, OH | 2/8/88 | 1/20/88 | 20,449 | Auto Products. |
| Jordace Footwear, Co. (Workers) | New York, NY | 2/8/88 | 1/25/88 | 20,450 | Shoes. |
| Levelor-Lorentzen, Inc. (Workers) | Hialeah, FL | 2/8/88 | 1/3/88 | 20,451 | Venetian Blinds. |
| Mack Truck, Inc. (UAW) | Hagerstown, PA | 2/8/88 | 1/28/88 | 20,452 | Diesel Engines. |

APPENDIX—Continued

| Petitioner (Union/Workers/Firm) | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| Melinda Frocks (ILGWU) | Newark, NJ | 2/8/88 | 1/25/88 | 20,453 | Womens Wear. |
| New Castle Piano String Div. (Workers) | Mooreland, IN | 2/8/88 | 1/26/88 | 20,454 | Piano Strings. |
| Parker-Hannifin (IAW) | Waverly, OH | 2/8/88 | 1/26/88 | 20,455 | Valves. |
| Philadelphia Steel & Wire Corp. (USWA) | Philadelphia, PA | 2/8/88 | 1/25/88 | 20,456 | Wire Products. |
| Wire Technical, Inc. (Workers) | St. Paul, MN | 2/8/88 | 1/28/88 | 20,457 | Wire and Cables. |

[FR Doc. 88-3295 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-30-M

## Job Training Partnership Act; Native American Programs; Proposed Total Allocations and Allocation Formulas for Program Year 1988 Regular Program and Calendar Year 1988 Summer Youth Employment and Training Program

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Employment and Training Administration of the Department of Labor is publishing the proposed Native American allocations, distribution formulas and rationale, and individual grantee planning estimates for Program Year 1988 (PY) (July 1, 1988–June 30, 1989) for regular programs funded under Title IV–A of the Job Training Partnership Act, (JTPA) and for Calendar Year 1988 for Summer Youth Employment and Training Programs (SYETP) funded under Title II–B of the JTPA.

**DATE:** Written comments on this proposal are invited and must be received on or before March 1, 1988.

**ADDRESS:** Send written comments to: Mr. Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, Room N–4641, 200 Constitution Avenue NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Mr. William McVeigh. Telephone: 202–535–0507.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 162 of the Job Training Partnership Act (JTPA), the Employment and Training Administration of the Department of Labor publishes below for review and comment the proposed allocations and distribution formulas for areas to be served by Native American grantees to be funded under JTPA section 401, and JTPA Title II, Part B. The amounts to be distributed are $59,713,000 for the JTPA section 401 programs for Program Year (PY) 1988 (July 1, 1988–June 30, 1989); and $13,639,358 for the JTPA Title II, Part B, Summer Youth Employment and Training Program (SYETP) for the summer of Calendar Year 1988. The planning estimates reflect the existing grantees and their currently assigned areas, and are subject to change for such reasons as Administrative Law Judge decisions, the possibility that a grantee will want to have its designation withdrawn, legislative changes, et al.

The formula for allocating JTPA section 401 funds provides that 25 percent of the funding will be based on the number of unemployed Native Americans in the grantee's area, and 75 percent will be based on the number of poverty-level Native Americans in the grantee's area.

The formula for allocating SYETP funds divides the funds among eligible recipients based on the proportion that the number of Native American youths in a recipient's area bears to the total number of Native American youths in all eligible recipients' areas.

The rationale for the above formulas is that the number of poverty-level persons, unemployed persons, and youths among the Native American population is indicative of the need for training and employment funds.

Statistics on youths, unemployed persons, and poverty-level persons among Native Americans used in the above programs are derived from the Decennial Census of the Population, 1980.

Signed at Washington, DC, this 8th day of February 1988.

**Roberts T. Jones,**

*Acting Assistant Secretary of Labor.*

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION



PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| POARCH BAND OF CREEK INDIANS<br>ROUTE 3, BOX 243A<br>ATMORE, ALABAMA<br>36502<br>GRANT NUMBER:99-7-0648-55-104-02 | 389,124 | 311,299 | 77,825 | 2,475 | 1,980 | 495 |
| ALEUTIAN/PRIBILOF ISLANDS ASSOC.<br>1689 C STREET<br>ANCHORAGE, ALASKA<br>99501<br>GRANT NUMBER:99-7-0117-55-071-02 | 46,410 | 37,128 | 9,282 | 36,535 | 29,228 | 7,307 |
| ASSOC. OF VILLAGE COUNCIL PRESIDENTS<br>P.O. BOX 848<br>BETHEL, ALASKA<br>99559<br>GRANT NUMBER:99-7-2713-55-135-02 | 551,664 | 441,331 | 110,333 | 274,554 | 219,643 | 54,911 |
| BRISTOL BAY NATIVE ASSOCIATION<br>P.O. BOX 189<br>DILLINGHAM, ALASKA<br>99576<br>GRANT NUMBER:99-7-0116-55-070-02 | 136,752 | 109,402 | 27,350 | 83,366 | 66,693 | 16,673 |
| CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TR<br>320 W, WILLOUGHBY, SUITE 300<br>JUNEAU, ALASKA<br>99801<br>GRANT NUMBER:99-7-0114-55-068-02 | 213,543 | 170,834 | 42,709 | 177,029 | 141,623 | 35,406 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| COOK INLET TRIBAL COUNCIL<br>670 WEST FIREWEED LANE<br>ANCHORAGE, ALASKA<br>99503<br>GRANT NUMBER:99-7-3402-55-188-02 | 354,380 | 283,504 | 70,876 | 211,187 | 168,950 | 42,237 |
| KAWERAK INCORPORATED<br>P.O. BOX 948<br>NOME, ALASKA<br>99762<br>GRANT NUMBER:99-7-0123-55-073-02 | 215,472 | 172,378 | 43,094 | 97,029 | 77,623 | 19,406 |
| KENAITZE INDIAN TRIBE<br>P. O. BOX 988<br>KENAI, ALASKA<br>99611<br>GRANT NUMBER:99-7-0089-55-067-02 | 29,396 | 23,517 | 5,879 | 18,416 | 14,733 | 3,683 |
| KODIAK AREA NATIVE ASSOCIATION<br>402 CENTER AVENUE<br>KODIAK, ALASKA<br>99615<br>GRANT NUMBER:99-7-0115-55-069-02 | 62,305 | 49,844 | 12,461 | 35,247 | 28,198 | 7,049 |
| MANILAQ MANPOWER<br>P.O. BOX 725<br>KOTZEBUE, ALASKA<br>99752<br>GRANT NUMBER:99-7-0124-55-074-02 | 169,083 | 135,266 | 33,817 | 93,465 | 74,772 | 18,693 |

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION



PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| METLAKATLA INDIAN COMMUNITY<br>P.O. BOX 8<br>METLAKATLA, ALASKA<br>99926<br>GRANT NUMBER:99-7-0064-55-053-02 | 15,341 | 12,273 | 3,068 | 19,208 | 15,366 | 3,842 |
| NORTH PACIFIC RIM<br>611 EAST 12TH - SUITE 102<br>ANCHORAGE, ALASKA<br>99501<br>GRANT NUMBER:99-7-0118-55-072-02 | 56,271 | 45,017 | 11,254 | 27,525 | 22,020 | 5,505 |
| TANANA CHIEFS CONFERENCE, INC.<br>201 FIRST AVENUE - DOYON BLDG.<br>FAIRBANKS, ALASKA<br>99701<br>GRANT NUMBER:99-7-3109-55-150-02 | 375,934 | 300,747 | 75,187 | 227,128 | 181,702 | 45,426 |
| AFFILIATION OF ARIZONA IND. CNTRS. INC.<br>2721 NORTH CENTRAL AVE., SUITE 814<br>PHOENIX, ARIZONA<br>85004<br>GRANT NUMBER:99-7-0268-55-089-02 | 248,666 | 198,933 | 49,733 | 0 | 0 | 0 |
| AMERICAN INDIAN ASSOC. OF TUCSON<br>P.O. BOX 7246<br>TUCSON, ARIZONA<br>85725<br>GRANT NUMBER:99-7-0492-55-096-02 | 324,482 | 259,586 | 64,896 | 0 | 0 | 0 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| COLORADO RIVER INDIAN TRIBES<br>ROUTE 1, BOX 23-B<br>PARKER, ARIZONA<br>85344<br>GRANT NUMBER:99-7-0498-55-097-02 | 79,470 | 63,576 | 15,894 | 32,871 | 26,297 | 6,574 |
| GILA RIVER INDIAN COMMUNITY<br>BOX 97<br>SACATON, ARIZONA<br>85247<br>GRANT NUMBER:99-7-0054-55-049-02 | 475,175 | 380,140 | 95,035 | 141,584 | 113,267 | 28,317 |
| HOPI TRIBAL COUNCIL<br>BOX 123<br>KYKOTSMOVI, ARIZONA<br>86039<br>GRANT NUMBER:99-7-0057-55-050-02 | 372,354 | 297,883 | 74,471 | 112,673 | 90,138 | 22,535 |
| INDIAN DEV. DIST. OF ARIZONA, INC.<br>1777 W. CAMELBACK ROAD, SUITE D-102<br>PHOENIX, ARIZONA<br>85015<br>GRANT NUMBER:99-7-0053-55-048-02 | 108,591 | 86,873 | 21,718 | 45,940 | 36,752 | 9,188 |
| NATIVE AMERICANS FOR COMMUNITY ACTION<br>2717 NORTH STEVES BOULEVARD<br>SUITE 11<br>FLAGSTAFF, ARIZONA 86004<br>GRANT NUMBER:99-7-1777-55-119-02 | 110,685 | 88,548 | 22,137 | 0 | 0 | 0 |

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION

PAGE 5

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| NAVAJO TRIBE OF INDIANS<br>P.O. BOX 1889<br>WINDOW ROCK,ARIZONA<br>86515<br>GRANT NUMBER:99-7-0059-55-052-02 | 6,599,266 | 5,279,413 | 1,319,853 | 2,484,546 | 1,987,637 | 496,909 |
| PASQUA YAQUI TRIBE<br>7474 S. CAMINO DE OESTE<br>TUCSON, ARIZONA<br>85746<br>GRANT NUMBER:99-7-3289-55-160-02 | 37,310 | 29,848 | 7,462 | 9,802 | 7,842 | 1,960 |
| PHOENIX INDIAN CENTER, INC.<br>1337 NORTH 1ST STREET<br>PHOENIX, ARIZONA<br>85004<br>GRANT NUMBER:99-7-0195-55-084-02 | 682,719 | 546,175 | 136,544 | 0 | 0 | 0 |
| SALT RIVER PIMA-MARICOPA IND. COMMUN.<br>ROUTE 1, BOX 216<br>SCOTTSDALE, ARIZONA<br>85256<br>GRANT NUMBER:99-7-0476-55-094-02 | 92,898 | 74,318 | 18,580 | 49,208 | 39,366 | 9,842 |
| SAN CARLOS APACHE TRIBE<br>P.O. BOX'O'<br>SAN CARLOS, ARIZONA<br>85550<br>GRANT NUMBER:99-7-0173-55-081-02 | 303,070 | 242,456 | 60,614 | 123,861 | 99,089 | 24,772 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| TOHONO O'ODHAM NATION<br>P.O. BOX 837<br>SELLS, ARIZONA<br>85634<br>GRANT NUMBER:99-7-0181-55-083-02 | 414,185 | 331,348 | 82,837 | 133,960 | 107,168 | 26,792 |
| WHITE MOUNTAIN APACHE TRIBE<br>P.O. BOX 700<br>WHITE RIVER, ARIZONA<br>85941<br>GRANT NUMBER:99-7-0174-55-186-02 | 321,889 | 257,511 | 64,378 | 138,910 | 111,128 | 27,782 |
| AM. INDIAN CENTER OF ARKANSAS, INC.<br>2 VAN CIRCLE, SUITE 7<br>LITTLE ROCK, ARKANSAS<br>72207<br>GRANT NUMBER:99-7-1778-55-120-02 | 450,865 | 360,692 | 90,173 | 0 | 0 | 0 |
| CALIFORNIA INDIAN MANPOWER CSRT.<br>4153 NORTHGATE BOULEVARD<br>SACRAMENTO, CALIFORNIA<br>95841<br>GRANT NUMBER:99-7-2058-55-181-02 | 2,672,081 | 2,137,665 | 534,416 | 161,584 | 129,267 | 32,317 |
| CANDALARIA AMERICAN INDIAN COUNCIL<br>2635 WAGON WHEEL ROAD<br>OXNARD, CALIFORNIA<br>93030<br>GRANT NUMBER:99-7-0086-55-066-02 | 446,221 | 356,977 | 89,244 | 0 | 0 | 0 |

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FY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| CSRT. OF UNITED INDIAN NATIONS<br>1404 FRANKLIN STREET, SUITE 202<br>OAKLAND, CALIFORNIA<br>94612<br>GRANT NUMBER:99-7-2310-55-133-02 | 622,033 | 497,626 | 124,407 | 0 | 0 | 0 |
| FRESNO AMERICAN INDIAN COUNCIL<br>283 NORTH FRESNO STREET<br>FRESNO, CALIFORNIA<br>93701<br>GRANT NUMBER:99-7-0079-55-193-02 | 272,050 | 217,640 | 54,410 | 0 | 0 | 0 |
| HOOPA VALLEY BUSINESS COUNCIL<br>P.O. BOX 815<br>HOOPA, CALIFORNIA<br>95546<br>GRANT NUMBER:99-7-1142-55-114-02 | 50,125 | 40,100 | 10,025 | 23,861 | 19,089 | 4,772 |
| INDIAN CENTER OF SAN JOSE, INC.<br>935 THE ALAMEDA<br>SAN JOSE, CALIFORNIA<br>95126<br>GRANT NUMBER:99-7-0499-55-098-02 | 229,045 | 183,236 | 45,809 | 0 | 0 | 0 |
| INDIAN HUMAN RESOURCES CENTER<br>4040 30TH STREEET SUITE A<br>SAN DIEGO, CALIFORNIA<br>92104<br>GRANT NUMBER:99-7-2441-55-134-02 | 436,840 | 349,472 | 87,368 | 0 | 0 | 0 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| NORTHERN CALIF. IND. DEV. COUNCIL, INC.<br>241 F STREET<br>EUREKA, CALIFORNIA<br>95501<br>GRANT NUMBER:99-7-0686-55-015-02 | 314,654 | 251,723 | 62,931 | 16,238 | 12,990 | 3,248 |
| ORANGE COUNTY INDIAN CENTER, INC.<br>P.O. BOX 2550 - SUITE 1<br>GARDEN GROVE, CALIFORNIA<br>92642-2550<br>GRANT NUMBER:99-7-0170-55-172-02 | 1,929,063 | 1,543,250 | 385,813 | 0 | 0 | 0 |
| TULE RIVER TRIBE<br>DEPT. OF HEALTH, SAFETY & WELFARE<br>P.O. BOX 589<br>PORTERVILLE, CALIFORNIA 93257<br>GRANT NUMBER:99-7-3219-55-153-02 | 129,423 | 103,538 | 25,885 | 4,455 | 3,564 | 891 |
| YA-KA-AMA INDIAN EDUC. AND DEV., INC.<br>6215 EASTSIDE ROAD<br>HEALDSBURG, CALIFORNIA<br>95448<br>GRANT NUMBER:99-7-0082-55-065-02 | 128,122 | 102,498 | 25,624 | 0 | 0 | 0 |
| DENVER INDIAN CENTER, INC.<br>4407 MORRISON ROAD<br>DENVER, COLORADO<br>80219<br>GRANT NUMBER:99-7-0076-55-062-02 | 597,528 | 478,022 | 119,506 | 0 | 0 | 0 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1 ' II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| SOUTHERN UTE INDIAN TRIBE<br>P.O. BOX 800<br>IGNACIO, COLORADO<br>81137<br>GRANT NUMBER:99-7-2714-55-136-02 | 55,279 | 44,223 | 11,056 | 16,139 | 12,911 | 3,228 |
| UTE MOUNTAIN UTE TRIBE<br>P.O. BOX 30<br>TOWAOC, COLORADO<br>81334<br>GRANT NUMBER:99-7-1143-55-115-02 | 66,651 | 53,321 | 13,330 | 19,505 | 15,604 | 3,901 |
| AMERICAN INDIANS FOR DEVELOPMENT, INC.<br>P.O. BOX 117<br>MERIDEN, CONNECTICUT<br>06450<br>GRANT NUMBER:99-7-0361-55-091-02 | 186,095 | 148,876 | 37,219 | 0 | 0 | 0 |
| NUIC d/b/a DELAWARE INDIAN COUNCIL<br>2258 S. BROADWAY<br>DENVER, COLORADO<br>80210<br>GRANT NUMBER:99-7-3403-55-187-02 | 38,436 | 30,749 | 7,687 | 0 | 0 | 0 |
| FLA. GOVERNORS COUNCIL ON IND. AFFAIRS<br>521 E. COLLEGE AVENUE<br>TALLAHASSEE, FLORIDA<br>32301<br>GRANT NUMBER:99-7-0692-55-107-02 | 842,833 | 674,266 | 168,567 | 0 | 0 | 0 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| MICCOSUKEE CORPORATION<br>P.O. BOX 440021, TAMIAMI STATION<br>MIAMI, FLORIDA<br>33144<br>GRANT NUMBER:99-7-0052-55-047-02 | 118,383 | 94,706 | 23,677 | 41,980 | 33,584 | 8,396 |
| SEMINOLE TRIBE OF FLORIDA<br>JTPA DEPARTMENT<br>6073 STIRLING ROAD<br>HOLLYWOOD, FLORIDA 33024<br>GRANT NUMBER:99-7-0004-55-009-02 | 66,673 | 53,338 | 13,335 | 8,218 | 6,574 | 1,644 |
| NUIC d/b/a GEORGIA ASSOCIATION OF NATIVE AMERI<br>2258 S. BROADWAY<br>DENVER, COLORADO<br>80210<br>GRANT NUMBER:99-7-3406-55-190-02 | 337,745 | 270,196 | 67,549 | 0 | 0 | 0 |
| ALU LIKE, INC.<br>1024 MAPUNAPUNA STREET<br>HONOLULU, HAWAII<br>96819-4417<br>GRANT NUMBER:99-7-1179-55-116-02 | 2,455,567 | 1,964,454 | 491,113 | 2,179,398 | 1,743,518 | 435,880 |
| AMERICAN INDIAN SERVICE CORPORATION<br>810 NORTH VINEYARD BOULEVARD<br>HONOLULU, HAWAII<br>96817<br>GRANT NUMBER:99-7-3404-55-189-02 | 86,580 | 69,264 | 17,316 | 0 | 0 | 0 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| KOOTENAI TRIBE OF INDIANS<br>P. O. BOX 1269<br>BUNNERSFERRY. IDAHO<br>83805<br>GRANT NUMBER:99-7-3334-55-161-02 | 31,980 | 25,584 | 6,396 | 1,386 | 1,109 | 277 |
| NEZ PERCE TRIBE<br>P.O. BOX 365<br>LAPWAI, IDAHO<br>83540-0305<br>GRANT NUMBER:99-7-0065-55-054-02 | 79,997 | 63,998 | 15,999 | 12,970 | 10,376 | 2,594 |
| SHOSHONE-BANNOCK TRIBES<br>FORT HALL INDIAN RESERVATIONS<br>P.O. BOX 306<br>FORT HALL, IDAHO 83203<br>GRANT NUMBER:99-7-1780-55-121-02 | 237,535 | 190,028 | 47,507 | 42,079 | 33,663 | 8,416 |
| AMERICAN INDIAN BUSINESS ASSOCIATION<br>4735 NORTH BROADWAY, SUITE 700<br>CHICAGO, ILLINOIS<br>60640<br>GRANT NUMBER:99-7-0809-55-109-02 | 1,076,544 | 861,235 | 215,309 | 0 | 0 | 0 |
| MID AMERICA ALL INDIAN CENTER, INC.<br>660 N. SENECA<br>WICHITA, KANSAS<br>67203<br>GRANT NUMBER:99-7-0168-55-078-02 | 160,519 | 128,415 | 32,104 | 0 | 0 | 0 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| UNITED TRIBES OF KANSAS AND S.E. NEB.<br>P.O. BOX 29<br>HORTON, KANSAS<br>66439<br>GRANT NUMBER:99-7-0178-55-082-02 | 490,865 | 392,692 | 98,173 | 10,297 | 8,238 | 2,059 |
| INTER-TRIBAL COUNCIL OF LOUISIANA, INC.<br>5425 GALERIA DRIVE - SUITE A<br>BATON ROUGE, LOUISIANA<br>70816<br>GRANT NUMBER:99-7-0026-55-026-02 | 444,826 | 355,861 | 88,965 | 5,743 | 4,594 | 1,149 |
| CENTRAL MAINE INDIAN ASSOCIATION, INC.<br>352 HARLOW STREET<br>BANGOR, MAINE<br>04401<br>GRANT NUMBER:99-7-2719-55-182-02 | 90,585 | 72,468 | 18,117 | 0 | 0 | 0 |
| TRIBAL GOVERNORS, INC.<br>93 MAIN STREET<br>ORONO, MAINE<br>04473<br>GRANT NUMBER:99-7-0001-55-167-02 | 104,207 | 83,366 | 20,841 | 28,812 | 23,050 | 5,762 |
| BALTIMORE AMERICAN INDIAN CENTER<br>113 SO. BROADWAY<br>BALTIMORE, MARYLAND<br>21231<br>GRANT NUMBER:99-7-3405-55-192-02 | 313,207 | 250,566 | 62,641 | 0 | 0 | 0 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| BOSTON INDIAN COUNCIL, INC.<br>105 S. HUNTINGTON AVENUE<br>JAMAICA PLAIN, MASSACHUSETTS<br>02130<br>GRANT NUMBER:99-7-0494-55-174-02 | 235,801 | 188,641 | 47,160 | 0 | 0 | 0 |
| MASHPEE-WAMPAHOAG INDIAN TRIBAL COUNCIL<br>P.O. BOX 1048<br>MASHPEE, MASSACHUSETTS<br>02649<br>GRANT NUMBER:99-7-0408-55-093-02 | 82,239 | 65,791 | 16,448 | 0 | 0 | 0 |
| GRAND RAPIDS INTER-TRIBAL COUNCIL<br>45 LEXINGTON AVE. N.W.<br>GRAND RAPIDS, MICHIGAN<br>49504<br>GRANT NUMBER:99-7-0694-55-108-02 | 117,693 | 94,154 | 23,539 | 0 | 0 | 0 |
| GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA IND<br>ROUTE 1 BOX 135<br>SUTTONS BAY, MICHIGAN<br>49682<br>GRANT NUMBER:99-7-2721-55-137-02 | 54,526 | 43,621 | 10,905 | 2,574 | 2,059 | 515 |
| INTER-TRIBAL COUNCIL OF MICHIGAN, INC.<br>405 EAST EASTERDAY AVENUE<br>SAULTE ST. MARIE, MICHIGAN<br>49783<br>GRANT NUMBER:99-7-0172-55-080-02 | 65,319 | 52,255 | 13,064 | 31,980 | 25,584 | 6,396 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES
12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| MICHIGAN INDIAN EMPLOYMENT AND TRAINING SERVIC<br>809 CENTER STREET - SUITE 6<br>LANSING, MICHIGAN<br>48906<br>GRANT NUMBER:99-7-1144-55-179-02 | 787,081 | 629,665 | 157,416 | 0 | 0 | 0 |
| NORTH AMERICAN INDIAN ASSOC. OF DETROIT<br>22720 PLYMOUTH ROAD<br>DETROIT, MICHIGAN<br>48226<br>GRANT NUMBER:99-7-0695-55-176-02 | 396,555 | 317,244 | 79,311 | 0 | 0 | 0 |
| POTOWATTOMI INDIAN NATION<br>53237 TOWNHALL ROAD<br>P. O. BOX 61<br>DOWAGIAC, MICHIGAN 49047<br>GRANT NUMBER:99-7-3339-55-164-02 | 150,636 | 120,509 | 30,127 | 0 | 0 | 0 |
| SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS<br>2151 SHUNK ROAD<br>SAULT STE. MARIE, MICHIGAN<br>49783<br>GRANT NUMBER:99-7-0507-55-100-02 | 231,668 | 185,334 | 46,334 | 44,851 | 35,881 | 8,970 |
| SOUTHEASTERN MICHIGAN INDIANS, INC.<br>P.O. BOX 861<br>WARREN, MICHIGAN<br>48090<br>GRANT NUMBER:99-7-3220-55-154-02 | 63,839 | 51,071 | 12,768 | 0 | 0 | 0 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| AMERICAN INDIAN FELLOWSHIP ASSN.<br>8 EAST FOURTH STREET<br>DULUTH, MINNESOTA<br>55802<br>GRANT NUMBER:99-7-0254-55-087-02 | 134,560 | 107,648 | 26,912 | 2,178 | 1,742 | 436 |
| AMERICAN INDIAN OPPORTUNITIES CTR.<br>2495 - 18TH AVENUE SOUTH<br>MINNEAPOLIS, MINNESOTA<br>55404<br>GRANT NUMBER:99-7-3221-55-155-02 | 517,287 | 413,830 | 103,457 | 0 | 0 | 0 |
| BOIS FORTE R. B. C.<br>P.O. BOX 16<br>NETT LAKE, MINNESOTA<br>55772<br>GRANT NUMBER:99-7-0010-55-014-02 | 38,426 | 30,741 | 7,685 | 9,406 | 7,525 | 1,881 |
| FOND DU LAC R.B.C.<br>105 UNIVERSITY ROAD<br>CLOQUET, MINNESOTA<br>55720<br>GRANT NUMBER:99-7-0009-55-013-02 | 39,270 | 31,416 | 7,854 | 6,733 | 5,386 | 1,347 |
| LEECH LAKE R. B. C.<br>ROUTE 3, BOX 100<br>CASS LAKE, MINNESOTA<br>56633<br>GRANT NUMBER:99-7-0012-55-017-02 | 177,534 | 142,027 | 35,507 | 51,386 | 41,109 | 10,277 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| MILLE LACS BAND OF CHIPPEWA INDIANS<br>STAR ROUTE-BOX 194<br>ONAMIA, MINNESOTA<br>56359<br>GRANT NUMBER:99-7-0008-55-012-02 | 32,409 | 25,927 | 6,482 | 9,307 | 7,446 | 1,861 |
| MINNEAPOLIS AMERICAN INDIAN CENTER<br>1530 EAST FRANKLIN AVENUE<br>MINNEAPOLIS, MINNESOTA<br>55404<br>GRANT NUMBER:99-7-0204-55-085-02 | 302,882 | 242,306 | 60,576 | 12,970 | 10,376 | 2,594 |
| RED LAKE TRIBAL COUNCIL<br>P.O. BOX 310<br>RED LAKE, MINNESOTA<br>56671<br>GRANT NUMBER:99-7-0017-55-020-02 | 142,156 | 113,725 | 28,431 | 66,237 | 52,990 | 13,247 |
| WHITE EARTH R.B.C.<br>BOX 418<br>WHITE EARTH, MINNESOTA<br>56591<br>GRANT NUMBER:99-7-0011-55-016-02 | 159,129 | 127,303 | 31,826 | 52,871 | 42,297 | 10,574 |
| MISSISSIPPI BAND OF CHOCTAW INDIANS<br>ROUTE 7, BOX 21<br>PHILADELPHIA, MISSISSIPPI<br>39350<br>GRANT NUMBER:99-7-0005-55-010-02 | 308,195 | 246,556 | 61,639 | 54,554 | 43,643 | 10,911 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| REGION VII AMERICAN INDIAN COUNCIL, INC.<br>310 ARMOUR ROAD, SUITE 205<br>KANSAS CITY, MISSOURI<br>64116<br>GRANT NUMBER:99-7-0967-55-177-02 | 571,024 | 456,819 | 114,205 | 0 | 0 | 0 |
| ASSINIBOINE AND SIOUX TRIBES<br>FORT PECK INDIAN RESERVATION<br>P.O. BOX 1027<br>POPLAR, MONTANA 59255<br>GRANT NUMBER:99-7-0033-55-031-02 | 212,638 | 170,110 | 42,528 | 80,594 | 64,475 | 16,119 |
| BLACKFEET TRIBAL BUSINESS COUNCIL<br>P.O.BOX 1090<br>BROWNING, MONTANA<br>59417<br>GRANT NUMBER:99-7-0006-55-011-02 | 246,658 | 197,326 | 49,332 | 96,831 | 77,465 | 19,366 |
| CHIPPEWA CREE TRIBE, ROCKY BOYS RESERV.<br>ROCKY BOY ROUTE - P.O. BOX 580<br>BOX ELDER, MONTANA<br>59521<br>GRANT NUMBER:99-7-0035-55-033-02 | 99,256 | 79,405 | 19,851 | 31,188 | 24,950 | 6,238 |
| CONFEDERATED SALISH & KOOTENAI TRIBES<br>P.O. BOX 278<br>PABLO, MONTANA<br>59855<br>GRANT NUMBER:99-7-0031-55-030-02 | 249,558 | 199,646 | 49,912 | 76,039 | 60,831 | 15,208 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES
12-30-1987

| | PY 1988 IV-A | | | 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| CROW INDIAN TRIBE<br>P.O. BOX 257<br>CROW AGENCY, MONTANA<br>59022<br>GRANT NUMBER:99-7-0030-55-029-02 | 209,598 | 167,678 | 41,920 | 85,049 | 68,039 | 17,010 |
| FT. BELKNAP AGENCY<br>P. O. BOX 249<br>HARLEM, MONTANA<br>59526<br>GRANT NUMBER:99-7-0032-55-168-02 | 80,019 | 64,015 | 16,004 | 38,218 | 30,574 | 7,644 |
| MONTANA UNITED INDIAN ASSOCIATION<br>435 NORTH LAST CHANCE GULCH SUITE 2-A<br>HELENA, MONTANA<br>59601<br>GRANT NUMBER:99-7-0074-55-060-02 | 430,344 | 344,275 | 86,069 | 0 | 0 | 0 |
| NORTHERN CHEYENNE TRIBE<br>P.O. BOX 368<br>LAME DEER, MONTANA<br>59043<br>GRANT NUMBER:99-7-0034-55-032-02 | 166,090 | 132,872 | 33,218 | 57,030 | 45,624 | 11,406 |
| INDIAN CENTER, INC.<br>1100 MILITARY ROAD<br>LINCOLN, NEBRASKA<br>68508<br>GRANT NUMBER:99-7-2722-55-183-02 | 171,284 | 137,027 | 34,257 | 0 | 0 | 0 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| NEBRASKA INDIAN INTER-TRIBAL DEV. CORP.<br>ROUTE 1 - BOX 66-A<br>WINNEBAGO, NEBRASKA<br>68071<br>GRANT NUMBER:99-7-0087-55-171-02 | 310,659 | 248,527 | 62,132 | 57,525 | 46,020 | 11,505 |
| INTER-TRIBAL COUNCIL OF NEVADA<br>P.O. BOX 7440<br>RENO, NEVADA<br>89510<br>GRANT NUMBER:99-7-0058-55-051-02 | 333,429 | 266,743 | 66,686 | 72,475 | 57,980 | 14,495 |
| NATIONAL AMERICAN INDIAN CENTER, INC<br>2300 BONANZA ROAD<br>LAS VEGAS, NEVADA<br>89106<br>GRANT NUMBER:99-7-0687-55-105-02 | 93,311 | 74,649 | 18,662 | 0 | 0 | 0 |
| SHOSHONE PAIUTE TRIBES<br>P.O. BOX 219<br>OWYHEE, NEVADA<br>89832<br>GRANT NUMBER:99-7-2723-55-138-02 | 164,305 | 131,444 | 32,861 | 20,198 | 16,158 | 4,040 |
| POWHATAN RENAPE NATION<br>RANKOKUS RESERVATION - P.O. BOX 225<br>RANKOKUS, NEW JERSEY<br>08073<br>GRANT NUMBER:99-7-3222-55-156-02 | 295,216 | 236,173 | 59,043 | 0 | 0 | 0 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| ALAMO NAVAJO SCHOOL BOARD<br>P.O. BOX 907<br>MAGDALENA, NEW MEXICO<br>87825<br>GRANT NUMBER:99-7-2724-55-139-02 | 77,166 | 61,733 | 15,433 | 18,713 | 14,970 | 3,743 |
| ALL INDIAN PUEBLO COUNCIL, INC.<br>1015 INDIAN SCHOOL RD.,NW POBOX 650<br>ALBUQUERQUE, NEW MEXICO<br>87197<br>GRANT NUMBER:99-7-3341-55-165-02 | 148,746 | 118,997 | 29,749 | 83,366 | 66,693 | 16,673 |
| EIGHT INDIAN PUEBLO COUNCIL<br>P.O. BOX 969<br>SAN JUAN PUEBLO, NEW MEXICO<br>87566<br>GRANT NUMBER:99-7-3223-55-157-02 | 58,138 | 46,510 | 11,628 | 25,445 | 20,356 | 5,089 |
| FIVE SANDOVAL INDIAN PUEBLOS, INC.<br>P.O. BOX 580<br>BERNALILLO, NEW MEXICO<br>87004<br>GRANT NUMBER:99-7-3336-55-162-02 | 119,630 | 95,704 | 23,926 | 71,683 | 57,346 | 14,337 |
| JICARILLA APACHE TRIBE<br>P.O. BOX 507<br>DULCE,NEW MEXICO<br>87528<br>GRANT NUMBER:99-7-2725-55-140-02 | 53,821 | 43,057 | 10,764 | 32,772 | 26,218 | 6,554 |

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION



PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| MESCALERO APACHE TRIBE<br>P.O. BOX 176<br>MESCALERO, NEW MEXICO<br>88340<br>GRANT NUMBER:99-7-3100-55-149-02 | 75,156 | 60,125 | 15,031 | 31,881 | 25,505 | 6,376 |
| NATIONAL INDIAN YOUTH COUNCIL<br>318 ELM STREET SE<br>ALBUQUERQUE, NEW MEXICO<br>87102<br>GRANT NUMBER:99-7-0077-55-063-02 | 714,207 | 571,366 | 142,841 | 0 | 0 | 0 |
| PUEBLO OF ACOMA<br>P.O.BOX 469<br>PUEBLO OF ACOMA, NEW MEXICO<br>87034<br>GRANT NUMBER:99-7-2199-55-128-02 | 100,888 | 80,710 | 20,178 | 43,465 | 34,772 | 8,693 |
| PUEBLO OF LAGUNA<br>P.O. BOX 194<br>LAGUNA, NEW MEXICO<br>87026<br>GRANT NUMBER:99-7-1583-55-117-02 | 75,721 | 60,577 | 15,144 | 60,891 | 48,713 | 12,178 |
| PUEBLO OF TAOS<br>P.O. BOX 1846<br>TAOS, NEW MEXICO<br>87571<br>GRANT NUMBER:99-7-2200-55-129-02 | 32,475 | 25,980 | 6,495 | 13,267 | 10,614 | 2,653 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| PUEBLO OF ZUNI<br>ZUNI TRIBAL COUNCIL<br>P.O. BOX 339<br>ZUNI, NEW MEXICO 87327<br>GRANT NUMBER:99-7-0021-55-023-02 | 289,591 | 231,673 | 57,918 | 134,554 | 107,643 | 26,911 |
| RAMAH NAVAJO SCHOOL BOARD, INC.<br>DRAWER G<br>PINE HILL, NEW MEXICO<br>87321<br>GRANT NUMBER:99-7-0146-55-075-02 | 92,468 | 73,974 | 18,494 | 24,554 | 19,643 | 4,911 |
| SANTA CLARA INDIAN PUEBLO<br>P.O. BOX 580<br>ESPANOLA, NEW MEXICO<br>87532<br>GRANT NUMBER:99-7-3224-55-158-02 | 19,360 | 15,488 | 3,872 | 5,941 | 4,753 | 1,188 |
| SANTO DOMINGO TRIBE<br>GENERAL DELIVERY<br>SANTO DOMINGO, NEW MEXICO<br>87052<br>GRANT NUMBER:99-7-1781-55-122-02 | 126,061 | 100,849 | 25,212 | 43,465 | 34,772 | 8,693 |
| AMERICAN INDIAN COMMUNITY HOUSE, INC.<br>842 BROADWAY, 8TH FLOOR<br>NEW YORK CITY, NEW YORK<br>10003<br>GRANT NUMBER:99-7-0348-55-090-02 | 773,116 | 618,493 | 154,623 | 3,267 | 2,614 | 653 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| NATIVE AMERICAN CULTURAL CENTER, INC.<br>P. O. BOX 272<br>ROCHESTER, NEW YORK<br>14601<br>GRANT NUMBER:99-7-3407-55-191-02 | 89,221 | 71,377 | 17,844 | 0 | 0 | 0 |
| NATIVE AMERICAN MANPOWER PROGRAM, INC.<br>1047 GRANT STREET (REAR) - P.O. BOX 86<br>BUFFALO, NEW YORK<br>14207-0086<br>GRANT NUMBER:99-7-0689-55-106-02 | 230,251 | 184,201 | 46,050 | 10,693 | 8,554 | 2,139 |
| THE NORTH AM. IND. CLUB OF SYRACUSE AND VICIN<br>P.O. BOX 851<br>SYRACUSE, NEW YORK<br>13201<br>GRANT NUMBER:99-7-2201-55-130-02 | 194,688 | 155,750 | 38,938 | 7,624 | 6,099 | 1,525 |
| ST. REGIS MOHAWK TRIBE<br>COMMUNITY BUILDING<br>HOGANSBURG, NEW YORK<br>13655<br>GRANT NUMBER:99-7-0522-55-103-02 | 164,240 | 131,392 | 32,848 | 29,010 | 23,208 | 5,802 |
| SENECA NATION OF INDIANS<br>P. O. BOX 231<br>SALAMANCA, NEW YORK<br>14779<br>GRANT NUMBER:99-7-0169-55-079-02 | 305,409 | 244,327 | 61,082 | 57,129 | 45,703 | 11,426 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| CUMBERLAND COUNTY ASSOC. FOR IND. PEOPLE<br>102 INDIAN DRIVE<br>FAYETTEVILLE, NORTH CAROLINA<br>28301<br>GRANT NUMBER:99-7-1782-55-123-02 | 124,995 | 99,999 | 25,000 | 0 | 0 | 0 |
| EASTERN BAND OF CHEROKEE INDIANS<br>P.O. BOX 481<br>CHEROKEE, NORTH CAROLINA<br>28719<br>GRANT NUMBER:99-7-0003-55-008-02 | 235,592 | 188,474 | 47,118 | 91,089 | 72,871 | 18,218 |
| GUILFORD NATIVE AMERICAN ASSOC.<br>P.O. BOX 5623<br>400 PRESCOTT STREET<br>GREENSBORO, NORTH CAROLINA 27403<br>GRANT NUMBER:99-7-2727-55-142-02 | 95,012 | 76,010 | 19,002 | 0 | 0 | 0 |
| LUMBEE REG. DEV. ASSOC.<br>P.O. BOX 68<br>PEMBROKE, NORTH CAROLINA<br>28372<br>GRANT NUMBER:99-7-0067-55-055-02 | 1,284,118 | 1,027,294 | 256,824 | 0 | 0 | 0 |
| METROLINA NATIVE AMERICAN ASSN.<br>6407 IDLEWILD ROAD - SUITE 103<br>CHARLOTTE, NORTH CAROLINA<br>28212<br>GRANT NUMBER:99-7-2726-55-141-02 | 97,107 | 77,686 | 19,421 | 0 | 0 | 0 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| NORTH CAROLINA COMM. OF IND. AFFAIRS<br>P.O. BOX 27228<br>RALEIGH, NORTH CAROLINA<br>27611-7228<br>GRANT NUMBER:99-7-0070-55-057-02 | 382,778 | 306,222 | 76,556 | 0 | 0 | 0 |
| DEVILS LAKE SIOUX TRIBE<br>P.O. BOX 300<br>FORT TOTTEN, NORTH DAKOTA<br>58335<br>GRANT NUMBER:99-7-0037-55-034-02 | 118,305 | 94,644 | 23,661 | 40,495 | 32,396 | 8,099 |
| STANDING ROCK SIOUX<br>BOX D<br>FORT YATES, NORTH DAKOTA<br>58538<br>GRANT NUMBER:99-7-0046-55-041-02 | 247,583 | 198,066 | 49,517 | 98,415 | 78,732 | 19,683 |
| THREE AFFILIATED TRIBES<br>BOX 597<br>NEW TOWN, NORTH DAKOTA<br>58763<br>GRANT NUMBER:99-7-0062-55-170-02 | 167,328 | 133,862 | 33,466 | 58,515 | 46,812 | 11,703 |
| TURTLE MOUNTAIN BAND OF CHIPPEWA IND.<br>P.O. BOX 900<br>BELCOURT, NORTH DAKOTA<br>58316<br>GRANT NUMBER:99-7-0075-55-061-02 | 336,444 | 269,155 | 67,289 | 114,356 | 91,485 | 22,871 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| UNITED TRIBES - ED. TECH. CNTR.<br>3315 UNIVERSITY DRIVE<br>BISMARCK, NORTH DAKOTA<br>58501<br>GRANT NUMBER:99-7-0206-55-173-02 | 169,723 | 135,778 | 33,945 | 0 | 0 | 0 |
| NORTH AMERICAN INDIAN CULTURAL CENTER<br>1159 LAKESHORE BOULEVARD<br>AKRON, OHIO<br>44301<br>GRANT NUMBER:99-7-3349-55-166-02 | 717,907 | 574,326 | 143,581 | 0 | 0 | 0 |
| CADDO TRIBE OF OKLAHOMA<br>P.O. BOX 487<br>BINGER, OKLAHOMA<br>73009<br>GRANT NUMBER:99-7-1783-55-124-02 | 27,646 | 22,117 | 5,529 | 12,970 | 10,376 | 2,594 |
| CENTRAL TRIBES OF THE SHAWNEE AREA, INC.<br>624 NORTH BROADWAY<br>SHAWNEE, OKLAHOMA<br>74801<br>GRANT NUMBER:99-7-0038-55-035-02 | 80,092 | 64,074 | 16,018 | 51,683 | 41,346 | 10,337 |
| CHEROKEE NATION OF OKLAHOMA<br>P.O. BOX 948<br>TAHLEQUAH, OKLAHOMA<br>94465<br>GRANT NUMBER:99-7-0027-55-027-02 | 1,399,258 | 1,119,406 | 279,852 | 775,938 | 620,750 | 155,188 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| CHEYENNE-ARAPAHO TRIBES<br>P.O. BOX 38<br>CONCHO, OKLAHOMA<br>73022<br>GRANT NUMBER:99-7-0048-55-043-02 | 187,911 | 150,329 | 37,582 | 97,128 | 77,702 | 19,426 |
| CHICKASAW NATION OF OKLAHOMA<br>P.O. BOX 1548<br>ADA, OKLAHOMA<br>74820<br>GRANT NUMBER:99-7-0042-55-038-02 | 375,150 | 300,120 | 75,030 | 198,514 | 158,811 | 39,703 |
| CHOCTAW NATION OF OKLAHOMA<br>DRAWER 1210<br>DURANT, OKLAHOMA<br>74702<br>GRANT NUMBER:99-7-0041-55-037-02 | 764,014 | 611,211 | 152,803 | 348,712 | 278,970 | 69,742 |
| CITIZENS BAND POTAWATOMI IND. OF OKLA.<br>RT. 5, BOX 151<br>SHAWNEE, OKLAHOMA<br>74801<br>GRANT NUMBER:99-7-2202-55-131-02 | 189,338 | 151,470 | 37,868 | 162,970 | 130,376 | 32,594 |
| COMANCHE TRIBE OF OKLAHOMA<br>P.O. BOX 908<br>LAWTON, OKLAHOMA<br>73502<br>GRANT NUMBER:99-7-3150-55-151-02 | 155,819 | 124,655 | 31,164 | 125,544 | 100,435 | 25,109 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMFRICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| CREEK NATION OF OKLAHOMA<br>P.O. BOX 580<br>OKMULGEE, OKLAHOMA<br>74447<br>GRANT NUMBER:99-7-0025-55-025-02 | 569,329 | 455,463 | 113,866 | 375,048 | 300,038 | 75,010 |
| FOUR TRIBES CONSORTIUM OF OKLAHOMA<br>P.O. BOX 1193<br>ANADARKO, OKLAHOMA<br>73005<br>GRANT NUMBER:99-7-2728-55-143-02 | 71,421 | 57,137 | 14,284 | 38,911 | 31,129 | 7,782 |
| INTER-TRIBAL COUNCIL OF N.E. OKLAHOMA<br>P.O. BOX 1308<br>MIAMI, OKLAHOMA<br>74335<br>GRANT NUMBER:99-7-1135-55-110-02 | 49,913 | 39,930 | 9,983 | 37,822 | 30,258 | 7,564 |
| KAW TRIBE OF OKLAHOMA<br>DRAWER 50<br>KAW CITY, OKLAHOMA<br>74641<br>GRANT NUMBER:99-7-2729-55-144-02 | 2,733 | 2,186 | 547 | 1,485 | 1,188 | 297 |
| KIOWA TRIBE OF OKLAHOMA<br>P.O. BOX 361<br>CARNEGIE, OKLAHOMA<br>73015<br>GRANT NUMBER:99-7-0047-55-042-02 | 202,314 | 161,851 | 40,463 | 89,802 | 71,842 | 17,960 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

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| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| OKLAHOMA TRIBAL ASSISTANCE PROGRAM, INC.<br>P.O. BOX 2841<br>TULSA, OKLAHOMA<br>74101<br>GRANT NUMBER:99-7-0072-55-058-02 | 330,295 | 264,236 | 66,059 | 206,039 | 164,831 | 41,208 |
| OSAGE TRIBAL COUNCIL<br>P.O. BOX 147 - OSAGE AGENCY CAMPUS<br>PAWHUSKA, OKLAHOMA<br>74056<br>GRANT NUMBER:99-7-0022-55-024-02 | 100,840 | 80,672 | 20,168 | 80,495 | 64,396 | 16,099 |
| OTOE-MISSOURIA INDIAN TRIBE OF OKLA.<br>P.O. BOX 68<br>RED ROCK, OKLAHOMA<br>74074<br>GRANT NUMBER:99-7-2730-55-145-02 | 35,790 | 28,632 | 7,158 | 21,980 | 17,584 | 4,396 |
| PAWNEE TRIBE OF OKLAHOMA<br>P.O. BOX 470<br>PAWNEE, OKLAHOMA<br>74058<br>GRANT NUMBER:99-7-1785-55-126-02 | 22,766 | 18,213 | 4,553 | 17,129 | 13,703 | 3,426 |
| PONCA TRIBE OF INDIANS<br>WHITE EAGLE - BOX 2<br>PONCA CITY, OKLAHOMA.<br>74601<br>GRANT NUMBER:99-7-0029-55-028-02 | 53,677 | 42,942 | 10,735 | 50,594 | 40,475 | 10,119 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| SEMINOLE NATION OF OKLAHOMA<br>P.O. BOX 1481<br>WEWOKA, OKLAHOMA<br>74884<br>GRANT NUMBER:99-7-0051-55-046-02 | 143,702 | 114,962 | 28,740 | 70,495 | 56,396 | 14,099 |
| TONKAWA TRIBE OF OKLAHOMA<br>P.O. BOX 70<br>TONKAWA, OKLAHOMA<br>74653<br>GRANT NUMBER:99-7-1136-55-111-02 | 39,663 | 31,730 | 7,933 | 48,119 | 38,495 | 9,624 |
| UNITED URBAN INDIAN COUNCIL<br>1501 CLASSEN BLVD., SUITE 100<br>OKLAHOMA CITY, OKLAHOMA<br>73106-5435<br>GRANT NUMBER:99-7-2731-55-146-02 | 297,568 | 238,054 | 59,514 | 231,385 | 185,108 | 46,277 |
| CONFED. TRIBES OF SILETZ INDIANS<br>P.O. BOX 549<br>SILETZ, OREGON<br>97380<br>GRANT NUMBER:99-7-3153-55-152-02 | 314,077 | 251,262 | 62,815 | 14,554 | 11,643 | 2,911 |
| CONFED. TRIBES OF THE UMATILLA IND. RES.<br>P.O. BOX 638<br>PENDLETON, OREGON<br>97801<br>GRANT NUMBER:99-7-3065-55-148-02 | 43,995 | 35,196 | 8,799 | 17,228 | 13,782 | 3,446 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| CONFEDERATE TRIBES OF WARM SPRINGS<br>P.O. BOX C - TENINO ROAD<br>WARM SPRINGS, OREGON<br>97761<br>GRANT NUMBER:99-7-0256-55-088-02 | 92,842 | 74,274 | 18,568 | 44,752 | 35,802 | 8,950 |
| ORGANIZATION OF FORGOTTEN AMERICANS<br>P.O. BOX 1257<br>4509 SOUTH 56TH STREET, RM. 206<br>KLAMATH FALLS, OREGON 97601<br>GRANT NUMBER:99-7-2732-55-147-02 | 431,807 | 345,446 | 86,361 | 4,356 | 3,485 | 871 |
| URBAN INDIAN COUNCIL<br>1115 S. E. MORRISON<br>PORTLAND, OREGON<br>97208<br>GRANT NUMBER:99-7-0164-55-076-02 | 278,946 | 223,157 | 55,789 | 0 | 0 | |
| COUNCIL OF THREE RIVERS<br>200 CHARLES STREET<br>PITTSBURGH, PENNSYLVANIA<br>15238<br>GRANT NUMBER:99-7-0642-55-175-02 | 438,417 | 350,734 | 87,683 | 0 | 0 | 0 |
| UNITED AM. INDIANS OF THE DEL. VALLEY<br>225 CHESTNUT STREET<br>PHILADELPHIA, PENNSYLVANIA<br>19106<br>GRANT NUMBER:99-7-0477-55-095-02 | 195,999 | 156,799 | 39,200 | 0 | 0 | 0 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES
12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| RHODE ISLAND INDIAN COUNCIL<br>444 FRIENDSHIP ST.<br>PROVIDENCE, RHODE ISLAND<br>02907<br>GRANT NUMBER:99-7-0510-55-101-02 | 143,125 | 114,500 | 28,625 | 0 | 0 | 0 |
| PALMETTO INDIAN AFFAIRS COMMISSION<br>EMPLOYMENT AND TRAINING DIVISION<br>1300 PICKENS STREET - SUITE 200<br>COLUMBIA, SOUTH CAROLINA 29201-3430<br>GRANT NUMBER:99-7-0403-55-092-02 | 261,805 | 209,444 | 52,361 | 12,079 | 9,663 | 2,416 |
| CHEYENNE RIVER SIOUX TRIBE<br>P.O. BOX 768<br>EAGLE BUTTE, SOUTH DAKOTA<br>57625<br>GRANT NUMBER:99-7-0039-55-036-02 | 223,996 | 179,197 | 44,799 | 87,029 | 69,623 | 17,406 |
| LOWER BRULE SIOUX TRIBE<br>P.O. BOX 187<br>LOWER BRULE, SOUTH DAKOTA<br>57548<br>GRANT NUMBER:99-7-0073-55-059-02 | 56,766 | 45,413 | 11,353 | 15,247 | 12,198 | 3,049 |
| OGLALA SIOUX TRIBE<br>P.O. BOX G<br>PINE RIDGE, SOUTH DAKOTA<br>57770<br>GRANT NUMBER:99-7-0043-55-039-02 | 706,910 | 565,528 | 141,382 | 239,108 | 191,286 | 47,822 |

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PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| ROSEBUD SIOUX TRIBE<br>BOX 430<br>ROSEBUD, SOUTH DAKOTA<br>57570<br>GRANT NUMBER:99-7-0044-55-040-02 | 418,725 | 334,980 | 83,745 | 121,584 | 97,267 | 24,317 |
| SISSETON-WAHPETON SIOUX TRIBE<br>P.O. BOX 509<br>AGENCY VILLAGE, SOUTH DAKOTA<br>57262<br>GRANT NUMBER:99-7-0045-55-169-02 | 163,085 | 130,468 | 32,617 | 51,485 | 41,188 | 10,297 |
| UNITED SIOUX TRIBES DEV. CORP.<br>P.O. BOX 1193<br>PIERRE, SOUTH DAKOTA<br>57501<br>GRANT NUMBER:99-7-0165-55-077-02 | 692,730 | 554,184 | 138,546 | 67,128 | 53,702 | 13,426 |
| USET INCORPORATED<br>1101 KERMIT DRIVE<br>SUITE 800<br>NASHVILLE, TENNESSEE 37217<br>GRANT NUMBER:99-7-2737-55-184-02 | 621,702 | 497,362 | 124,340 | 0 | 0 | 0 |
| ALABAMA-COUSHATTA INDIAN TRIBAL COUNCIL<br>ROUTE 3 - BOX 645<br>LIVINGSTON,TEXAS<br>77315<br>GRANT NUMBER:99-7-1784-55-125-02 | 649,009 | 519,207 | 129,802 | 5,644 | 4,515 | 1,129 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| DALLAS INTER-TRIBAL CENTER<br>209 EAST JEFFERSON BLVD.<br>DALLAS, TEXAS<br>75203-2690<br>GRANT NUMBER:99-7-0078-55-064-02 | 266,348 | 213,078 | 53,270 | 0 | 0 | 0 |
| TIGUA INDIAN TRIBE<br>P.O. BOX 17579 - YSLETA STATION<br>EL PASO, TEXAS<br>79917<br>GRANT NUMBER:99-7-2099-55-127-02 | 443,314 | 354,651 | 88,663 | 12,376 | 9,901 | 2,475 |
| NIBC d/b/a UNITED TRIBES SERVICE CENTER, INC.<br>1164 SOUTH FOULGER STREET<br>SALT LAKE CITY, UTAH<br>84111<br>GRANT NUMBER:99-7-3337-55-163-02 | 406,945 | 325,556 | 81,389 | 0 | 0 | 0 |
| UTE INDIAN TRIBE<br>P.O. BOX 190<br>FORT DUCHESNE, UTAH<br>84026<br>GRANT NUMBER:99-7-0049-55-044-02 | 73,137 | 58,510 | 14,627 | 37,327 | 29,862 | 7,465 |
| ABENAKI SELF-HELP ASSN./N.H.IND. COUNC.<br>BOX 276<br>SWANTON, VERMONT<br>05488<br>GRANT NUMBER:99-7-3064-55-185-02 | 108,370 | 86,696 | 21,674 | 0 | 0 | 0 |

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION



PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| MATTAPONI PAMUNKEY MONACAN CONSORTIUM<br>ROUTE 2 - P.O. BOX 280<br>WEST POINT, VIRGINIA<br>23181<br>GRANT NUMBER:99-7-3227-55-159-02 | 235,191 | 188,153 | 47,038 | 1,683 | 1,346 | 337 |
| AMERICAN INDIAN COMMUNITY CENTER<br>EAST 801 SECOND AVE.<br>SPOKANE, WASHINGTON<br>99202<br>GRANT NUMBER:99-7-1138-55-112-02 | 699,268 | 559,414 | 139,854 | 125,049 | 100,039 | 25,010 |
| COLVILLE CONFEDERATED TRIBES<br>P.O. BOX 150<br>NESPELEM, WASHINGTON<br>99155<br>GRANT NUMBER:99-7-1726-55-118-02 | 198,369 | 158,695 | 39,674 | 52,970 | 42,376 | 10,594 |
| LUMMI INDIAN BUSINESS COUNCIL<br>2616 KWINA ROAD<br>BELLINGHAM, WASHINGTON<br>98225<br>GRANT NUMBER:99-7-2204-55-338-02 | 43,523 | 34,818 | 8,705 | 20,990 | 16,792 | 4,198 |
| N.W. INTER-TRIBAL COUNCIL<br>P.O. BOX 115<br>NEAN BAY, WASHINGTON<br>98357<br>GRANT NUMBER:99-7-0069-55-056-02 | 45,163 | 36,130 | 9,033 | 34,653 | 27,722 | 6,931 |

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| PUYALLUP TRIBE<br>2002 EAST 28TH ST.<br>TACOMA, WASHINGTON<br>98404<br>GRANT NUMBER:99-7-1137-55-178-02 | 160,154 | 128,123 | 32,031 | 21,089 | 16,871 | 4,218 |
| SEATTLE INDIAN CENTER<br>2222 2ND AVE.<br>SEATTLE, WASHINGTON<br>98121<br>GRANT NUMBER:99-7-0511-55-102-02 | 419,550 | 335,640 | 83,910 | 0 | 0 | 0 |
| WESTERN WASH. IND. EMPL. AND TRNG. PROG.<br>4505 PACIFIC HIGHWAY EAST<br>SUITE C-5<br>TACOMA, WASHINGTON 98424<br>GRANT NUMBER:99-7-1933-55-180-02 | 843,985 | 675,188 | 168,797 | 138,316 | 110,653 | 27,663 |
| LAC COURTE OREILLES TRIBAL GOVERNING BOARD<br>ROUTE 2, BOX 2700<br>HAYWARD, WISCONSIN<br>54843<br>GRANT NUMBER:99-7-0018-55-021-02 | 95,077 | 76,062 | 19,015 | 27,030 | 21,624 | 5,406 |
| LAC DU FLAMBEAU<br>P.O. BOX 67<br>LAC DU FLAMBEAU, WISCONSIN<br>54538<br>GRANT NUMBER:99-7-1139-55-113-02 | 45,776 | 36,621 | 9,155 | 20,792 | 16,634 | 4,158 |

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION

PAGE 37

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| MENOMINEE INDIAN TRIBE<br>P.O. BOX 397<br>KESHENA, WISCONSIN<br>54135-0397<br>GRANT NUMBER:99-7-0013-55-018-02 | 72,619 | 58,095 | 14,524 | 50,693 | 40,554 | 10,139 |
| MILWAUKEE AREA AM. IND. MANPOWER COUNC.<br>3121 W. WISCONSIN AVE.<br>MILWAUKEE, WISCONSIN<br>53208<br>GRANT NUMBER:99-7-0227-55-086-02 | 225,111 | 180,089 | 45,022 | 0 | 0 | 0 |
| ONEIDA TRIBE OF INDIANS OF WIS., INC.<br>P.O. BOX 365<br>ONEIDA, WISCONSIN<br>54115<br>GRANT NUMBER:99-7-0015-55-019-02 | 199,562 | 159,650 | 39,912 | 33,564 | 26,851 | 6,713 |
| STOCKBRIDGE-MUNSEE COMMUNITY<br>ROUTE 1<br>BOWLER, WISCONSIN<br>54416<br>GRANT NUMBER:99-7-0500-55-099-02 | 60,654 | 48,523 | 12,131 | 10,000 | 8,000 | 2,000 |
| WISCONSIN INDIAN CONSORTIUM<br>P.O. BOX 181<br>ODANAH, WISCONSIN<br>54861<br>GRANT NUMBER:99-7-2207-55-132-02 | 89,165 | 71,332 | 17,833 | 28,218 | 22,574 | 5,644 |

PY 1988 TITLE IV-A AND PY 1987 II-B (SUMMER 1988) PLANNING ESTIMATES FOR NATIVE AMERICAN GRANTEES

12-30-1987

| | PY 1988 IV-A | | | PY 1987 II-B | | |
|---|---|---|---|---|---|---|
| | TOTAL | PROGRAM | COST POOL | TOTAL | PROGRAM | COST POOL |
| WISCONSIN-WINNEBAGO BUSINESS COMMITTEE<br>P.O. BOX 311<br>TOMAH, WISCONSIN<br>54660<br>GRANT NUMBER:99-7-0019-55-022-02 | 193,593 | 154,874 | 38,719 | 16,040 | 12,832 | 3,208 |
| SHOSHONE/ARAPAHOE TRIBES<br>P.O. BOX 217<br>FORT WASHAKIE, WYOMING<br>82514<br>GRANT NUMBER:99-7-0050-55-045-02 | 218,116 | 174,493 | 43,623 | 75,643 | 60,514 | 15,129 |
| NATIONAL TOTAL | 59,713,000 | 47,770,397 | 11,942,603 | 13,639,358 | 10,911,480 | 2,727,878 |

[FR Doc. 88-3297 Filed 2-16-88; 8:45 am]
BILLING CODE 4510-30-C

## Employment Standards Administration, Wage and Hour Division

### Child Labor Advisory Committee; Meeting

A meeting of the Child Labor Advisory Committee will be held on March 9, 1988, from 9:00 a.m. to 5:00 p.m. and on March 10, 1988, from 9:00 a.m. to 5:00 p.m. This meeting will be held in Room S4215 A,B,C, Frances Perkins Building, Department of Labor, 200 Constitution Avenue NW., Washington, DC.

The Committee will elect a Chairperson, select subcommittees and consider topics concerning the employment of minors employed in occupations that are detrimental to their health and well-being.

The discussion will focus on what revisions, if any, are necessary to Regulations, 29 CFR Part 570. Specifically, the Committee will consider the following issues:

Hazardous Occupations Order No. 2, Motor Vehicle Occupations.

Hazardous Occupations Order No. 10, Occupations involving slaughtering, meat packing or processing, or rendering.

Child Labor Regulation No. 3, Employment Standards for 14- and 15-year-olds.

Members of the public are invited to attend the proceedings. Written data, reviews, or arguments pertaining to the business before the Committee must be received by the Committee's Coordinator prior to the meeting date. Twenty-six copies are needed for distribution to the members and for inclusion in the meeting minutes.

Telephone inquiries and communications concerning this meeting should be directed to Ms. Nila J. Stovall, Coordinator for the Child Labor Advisory Committee, (202) 523-7640.

Signed at Washington, DC, this 5th day of February 1988.

**Paula V. Smith,**

*Administrator.*

[FR Doc. 88-3296 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-27-M

## Mine Safety and Health Administration

**[Docket No. M-87-263-C]**

### Cumberland Valley Contractors, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Cumberland Valley Contractors, Inc., P.O. Box 1329, Middleboro, Kentucky 40965 has filed a petition to modify the application of 30 CFR 75.1403-10(b) (haulage; general) to its CV No. 1 Mine (I.D. No. 15-15964) located in Bell County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cars on main haulage roads not be pushed, except where necessary to push cars from side tracks located near the working section to the producing entries and rooms, where necessary to clear switches and sidetracks, and on the approach to cages, slopes, and surface inclines.

2. As an alternate method, petitioner proposes to load flat car rail equipment on the surface, pull it to the face area with a railrunner, unload, and then push the empty flat car to the outside. In support of this request, petitioner states that—

(a) The operator's deck is in the middle of the railrunner, approximately ten feet from the coupling device, affording more than adequate protection to the operator;

(b) The only alternative to pushing the flat car would be to lay a track loop near the face area, however, this is not feasible because the mine has a five entry mining system and the loop would limit the roadways to the point that the equipment would not be able to maneuver outby the face area without damaging the equipment, rail or cables; and

(c) The flat car will always be empty while being pushed.

3. For these reasons, petitioner requests a modification of the standard.

### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 18, 1988. Copies of the petition are available for inspection at that address.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations and Variances.*

Date: February 9, 1988.

[FR Doc. 88-3298 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-43-M

**[Docket No. M-87-37-M]**

### General Chemical Corp.; Petition for Modification of Application of Mandatory Safety Standard

General Chemical Corporation, P.O. Box 551, Green River, Wyoming 82939-0551 has filed a petition to modify the application of 30 CFR 57.14013 (falling object protection) to its General Chemical Mine (I.D. No. 84.00155) located in Sweetwater County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that forklift trucks, front-end loaders, and bulldozers be provided with substantial canopies when necessary to protect the operator.

2. Petitioner states that the use of a canopy on the forklift truck on the bottom floor of the GRI and GRII soda ash plant would result in a diminution of safety.

3. The plant has five large calciners and six large dryers, each has four trunnions upon which the units rest and rotate. The trunnions, calciners and dryers weigh several thousand pounds each. The dryers are 81 feet in length and 8 feet in diameter and the calciner units are 75 feet in length and 10 feet in diameter. The distance to the floor from the bottom of the of the calciner is approximately 72 inches. The forklift with the canopy installed is 88 inches. Therefore, the calciners and dryers would have to be raised higher so that the forklift, with the canopy, can pass underneath.

4. Due to the termendous weight, size and location of the trunnions, calciners, and dryers there is no available means of lifting them mechanically. To attempt to remove this equipment manually would subject miners to hazardous conditions possibly resulting in injury.

5. For these reasons, petitioner requests a modification of the standard.

### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 18, 1988. Copies of the petition are available for inspection at that address.

Dated: February 9, 1988.

Patricia W. Silvey,

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 88-3299 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-43-M

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[Docket No. M-87-297-C]

## Jim Walter Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter Resources, Inc., P.O. Box C-79, Birmingham, Alabama 35283 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its No. 5 Mine (I.D. No. 01-01322) located in Jefferson County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner has electrical installations which are located such that all entries close to them are maintained as intake airways. There are no return airways available for ventilating these installations.

3. As an alternate method, petitioner proposes to locate electrical installations in intake aircourses. In support of this request, petitioner states that—

(a) The electric equipment is dry type transformers that are enclosed in a fireproof metal structure;

(b) The electrical equipment will contain no flammable cooling liquid or flammable hydraulic oil;

(c) Grounded phase protective devices protecting three-phrase equipment will be adjusted to remove incoming power at not more than 40 percent of the available fault current;

(d) A signal, activated by a suitable sensor, will be located so that it can be seen or heard by a responsible person;

(e) Firefighting equipment will be provided; and

(f) The electrical equipment will be examined, tested and maintained by a qualified electrician on a weekly basis. The examinations will include the early warning system.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 18, 1988. Copies of the petition are available for inspection at that address.

Date: February 9, 1988.

Patricia W. Silvey,

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 88-3300 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-43-M

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[Docket No. M-87-301-C]

## Tunnelton Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Tunnelton Mining Company, P.O. Box 327, Ebensburg, Pennsylvania 15931 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Marion Mine (I.D. No. 36-00929) located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that the affected areas are not part of the active working sections, the amount of methane generated is almost negligible, the bleeder evaluation points will still be examined as required, and the roof is susceptible to excessive scaling due to weathering.

3. Petitioner further states that because of roof falls certain areas of the mine cannot be safely traveled, and to attempt to rehabilitate these areas would expose miners to hazardous conditions.

4. As an alternate method, petitioner proposes to establish bleeder evaluation points and air monitoring stations where methane and air readings will be made by a certified person on a weekly basis. In support of this request, petitioner states that—

(a) The monitoring stations and access routes will be maintained in a travelable and safe condition. Air lock doors will be provided when needed;

(b) Methane will not be allowed to accumulate beyond legal limits; and

(c) A date board will be located at each monitoring station where the examiner's initials, date and time of the examination will be recorded. A book containing the date, time, methane readings and air quantity measurements will be located on the surface.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 18, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

*Director, Office of Standards, Regulations and Variances.*

Date: February 9, 1988.

[FR Doc. 88-3301 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-43-M

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[Docket No. M-88-10-C]

## United Mine Workers of America; Petition for Modification of Application of Mandatory Safety Standard

United Mine Workers of America, 900 Fifteenth Street, NW., Washington, DC 20005 has filed a petition to modify the application of 30 CFR 75.1707 (escapeways; intake air; separation from belt and trolley haulage entries) to the Ireland Mine, operated by the Consolidation Coal Company, (I.D. No. 46-01438) located in Marshall County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the escapeway required to be ventilated with intake air be separated from the belt and trolley haulage entires for the entire length of such entires to the beginning of each working section.

2. The only intake entry which is available as an escapeway ventilated with intake air contains potential fire sources. These fire sources include, but are not limited to: a battery powered mantrip and haulage motors, a battery

charging station, combustible materials such as hydraulic oil, gear oil and grease, transformers, a distribution box, a battery powered scoop, high-voltage cables and electrical pumps.

3. Petitioner states that the presence of such fire sources in the intake escapeway entry will result in a diminution of safety because the miners might not have an uncontaminated intake escapeway from which to escape the mine, in the event of an emergency.

4. As an alternate method, petitioner proposes that with the excepton of the distance between the belt tailpiece and the solid face (which distance should be no greater than 500 feet), all potential fire sources should be removed from the escapeway required to be ventilated with intake air.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

**Request for Comments**

Persons interested in this petiton may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 18, 1988. Copies of the petition are available for inspection at that address.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations and Variances.*

Dated: February 9, 1988.

[FR Doc. 88-3302 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-43-M

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**[Docket No. M-88-11-C]**

## United Mine Workers of America; Petition for Modification of Application of Mandatory Safety Standard

United Mine Workers of America, 900 Fifteenth Street, N.W., Washington, DC 20005 has filed a petition to modify the application of 30 CFR 75.1707 (escapeways; intake air; separation from belt and trolley haulage entries) to the McClure No. 1 Mine, operated by the Clinchfield Coal Company, (I.D. No. 44-04251) located in Dickenson County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the escapeway required to be ventilated with intake air be separated from the belt and trolley haulage entries for the entire length of such entries to the beginning of each working section.

2. There are two intake entries available to be used as escapeways, and both are being used to ventilate active working faces. As a result of this, any fire that might occur in the belt entry will cause smoke and other dangerous by-products to travel to the working faces. There are other potential fire sources including, but not limited to: a battery charging station, combustible materials such as hydraulic oil, gear oil and grease, transformers, a distribution box, a battery powered scoop, high-voltage cables and electrical pumps.

3. Petitioner states that the presence of such fire sources in the intake escapeway entry will result in a diminution of safety because the miners might not have an uncontaminated intake escapeway from which to escape the mine, in the event of an emergency.

4. As an alternate method, petitioner proposes that with the exception of the distance between the belt tailpiece and the solid face (which distance should be no greater than 500 feet), all potential fire sources should be removed from the escapeway required to be ventilated with intake air.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

**Request for Comments**

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 18, 1988. Copies of the petition are available for inspection at that address.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations and Variances.*

Date: February 9, 1988.

[FR Doc. 88-3303 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-43-M

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**[Docket No. M-88-9-C]**

## United Mine Workers of America; Petition for Modification of Application of Mandatory Safety Standard

United Mine Workers of America, 900 Fifteenth Street, NW., Washington, DC 20005 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems) to the Florence No. 1 Mine, operated by the Florence Mining Company, (I.D. No. 36-00925) located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of any fire within each belt flight.

2. Petitioner states that the belt fire detection system presently in use at the mine will result in a diminution of safety because the system does not issue a warning until a fire actually exists and the flames cause the temperature to rise to a sufficient level, thereby exposing miners to the risks associated with belt fires.

3. As an alternate method, petitioner proposes to install an early warning fire detection system, in addition to heat point sensor devices. A low-level carbon monoxide (CO) detection system would be installed in all belt entries used as intake or return aircourses and at each belt drive and tailpiece located in intake aircourses. The low-level carbon monoxide system would be capable of giving warning of a fire for four hours after the source of power to the belt is removed, and a device would be installed which would be capable of activating an alarm in case of low-charged batteries. A visual alert signal would be activated when the CO level is 10 parts per million (ppm) above ambient air and an audible signal would sound at 15 ppm above ambient air. All persons would be withdrawn to a fresh air area outby the working places with communication to the surface at 10 ppm and evacuated at 15 ppm. The fire alarm signal would be activated at an attended surface where there is two-way communication. The CO system would be capable of identifying any activated sensor and monitoring electrical continuity to detect any malfunctions. In addition, the system would be equipped with an audible alarm to be activated in the event any such malfunctions occur in the system and would also be equipped with a surge suppressor connected to outstations and datalines capable of taking a high voltage surge of electricity to ground.

4. The CO system would be visually examined at least once each coal-producing shift and tested for functional

operation weekly to ensure the monitoring system is functioning properly. The monitoring system would be calibrated with known concentrations of CO and air mixtures at least monthly.

5. If the CO monitoring system is deenergized or malfunctions, the conveyor belt would be completely stopped and all personnel inby the last working sensor would be withdrawn to a point outby the next working sensor.

6. Positioning and installation of sensors would be done so that both vertical and horizontal placement ensures maximum detection. CO sensors would be positioned in a combination track and belt haulageway so that the sensors would not be affected by any external heat sources.

7. When a CO monitoring system has the capability of expanding its functions, i.e., monitoring belts, bearing temperature, water, these expansions would be done without affecting the normal function of the system.

8. The CO monitoring system would be designed so that the system cannot be inadvertently shut down by accidentally punching one key. It will be programmed so that a coded message would have to be fed into the system.

9. If a sensor detects 15 ppm above the established ambient level for the mine, all section alarms on that split of air would be activated. The person sent to make the determination of the cause of activation will carry a self-contained self-rescuer, a hand-held methane detector and a CO detection device with a built-in alarm that will activate at 50 ppm of carbon monoxide.

10. The CO detection device would be available for use on each working section. These devices would be used for one shift and then transported to the surface where a qualified person will recharge and calibrate them.

11. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 18, 1988. Copies of the petition are available for inspection at that address.

Dated: February 9, 1988.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 88-3304 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-43-M

## Pension and Welfare Benefits Administration

### Advisory Council on Employee Welfare and Pension Benefits Plans; Work Group Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Reporting and Disclosure of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 10:00 a.m., Thursday, March 10, 1988, in Room N-3437B, U.S. Department of Labor Building, Third and Constitution Avenue NW., Washington, DC 20210.

This seven member work group was formed by the Advisory Council to study issues relating to reporting and disclosure for employee welfare plans covered by ERISA.

The purpose of the March 10 meeting is to begin a review and evaluation of the Employee Retirement Income Security Act, Reporting and Disclosure requirements, sections 101 through 111. The work group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the work group should submit written requests on or before March 3, 1988 to Charles W. Lee, Jr., Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before March 3, 1988.

Signed at Washington, DC this 11th day of February, 1988.

**David M. Walker,**

*Assistant Secretary for Pension and Welfare Benefits Administration.*

[FR Doc. 88-3257 Filed 2-26-88; 8:45 am]

BILLING CODE 4510-29-M

### Advisory Council on Employee Welfare and Pension Benefits Plans; Work Group Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Portability and Preservation of Pension of the Advisory Council on Employee Welfare and Pension Benefits Plans will be held at 10:00 a.m., Friday, March 11, 1988, in Room N-5437A, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

The eleven member work group was formed by the Advisory Council to study various issues relating to pension portability and benefit preservation.

The purpose of the March 11 meeting is to discuss pending proposals regarding pension portability and benefit preservation. The work group will take testimony from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the work group should submit written requests on or before March 4, 1988 to Charles W. Lee, Jr., Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before March 4, 1988.

Signed at Washington, DC, this 11th day of February 1988.

**David M. Walker,**

*Assistant Secretary for Pension and Welfare Benefits Administration.*

[FR Doc. 88-3258 Filed 2-16-88; 8:45 am]

BILLING CODE 4510-29-M

## NATIONAL LABOR RELATIONS BOARD

### Appointments of Individuals to Serve as Members of Performance Review Boards

5 U.S.C. 4314(c)(4) requires that the appointments of individuals to serve as members of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning 01 January 1987 and ending 30 September 1987.

**Name and Title**

Robert E. Allen—Associate General Counsel, Enforcement Litigation
Harold J. Datz—Associate General Counsel, Advice
Joseph E. DeSio—Associate General Counsel, Operations Management
Michael J. Fogerty—Chief Counsel to Board Member
John E. Higgins, Jr.—Deputy General Counsel
Joseph E. Moore—Deputy Executive Secretary
S.F. Timothy Mullen—Deputy Director of Administration
Anne G. Purcell—Chief Counsel to Board Member
Rosemary Pye—Chief Counsel to Board Member
Eugene L. Rosenfeld—Deputy Associate General Counsel, Operations Management
Ernest Russell—Director of Administration
Elinor H. Stillman—Chief Counsel to the Chairman
Berton B. Subrin—Director, Office of Representative Appeals
John C. Truesdale—Executive Secretary
Melvin J. Welles—Chief Administrative Law Judge
Charles M. Williamson—Chief Counsel to Board Member

Dated: Washington, DC, 11 February 1988.

By Direction of the Board.

**John C. Truesdale,**

*Executive Secretary.*

[FR Doc. 88-3255 Filed 2-16-88; 8:45 am]

BILLING CODE 7545-01-M

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of OMB review of information collection.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposals (four) for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Document One:*

1. Type of submission, new, revision, or extension: Extension.
2. The title of the information collection: Billing Instructions for NRC Cost Type Contracts.
3. The form number if applicable: 418 & 418A.
4. How often the collection is required: Monthly.
5. Who will be required or asked to report: NRC Contractors party to cost reimbursement type contracts.
6. An estimate of the number of responses: 3,600.
7. An estimate of the total number of hours needed to complete the requirement or request: 1,800.
8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not Applicable.
9. Abstract:

NRC provides billing instructions for its cost reimbursement contractors to follow in preparation of invoices. The instructions provide the level of detail in which supporting cost data must be submitted for NRC review. The cost information submitted is used to ensure that costs billed are proper for payment.

*Document Two:*

1. Type of submission, new, revision, or extension: Extension.
2. The title of the information collection: Proposal Preparation Instructions.
3. The form number if applicable: 455
4. How often the collection is required: One-time.
5. Who will be required or asked to report: Offerors submitting proposals in response to NRC solicitations for acquisition of research and technical assistance.
6. An estimate of the number of responses: 750
7. An estimate of the total number of hours needed to complete the requirement or request: 75,000.
8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not Applicable.
9. Abstract:

NRC in soliciting competitive proposals uses Proposal Preparation Instructions to inform offerors of specific requirements regarding form, format and content (technical, management and cost information) for proposals submitted in response to agency solicitations. The information is used to evaluate proposals using the evaluation criteria set forth in the solicitation.

*Document Three:*

1. Type of submission, new, revision, or extension: Extension.
2. The title of the information collection: General Assignment.
3. The form number if applicable: 450.
4. How often the collection is required: One-time.
5. Who will be required or asked to report: NRC Contractors party to Cost Reimbursement and Time and Materials type contracts.
6. An estimate of the number of responses: 100.
7. An estimate of the total number of hours needed to complete the requirement or request: 200
8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not Applicable.
9. Abstract:

In the contract closeout process, NRC requires the contractor to execute a General Assignment, assigning to the Government all rights, title and interest to refunds, rebates, credits or other amounts arising out of contract performance and to certify that a corporate official is empowered to make the assignment. The assignment is used as the basis for contractor collection of such amounts and payment of proceeds to the Government.

*Document Four:*

1. Type of submission, new, revision, or extension: Extension/Revision.
2. The title of the information collection: Contract Clauses.
3. The form number if applicable: Not Applicable.
4. How often the collection is required: On occasion, Monthly.
5. Who will be required or asked to report: Offerors responding to NRC solicitations and contractors to whom award is made.
6. An estimate of the number of responses: 2,520.
7. An estimate of the total number of hours needed to complete the requirement or request: 9,100.
8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not Applicable.
9. Abstract:

NRC uses contract clauses other than those in the FAR to ensure that agency policies, procedures and rules directed by the Atomic Energy Act with regard to Contractor Organizational Conflicts of Interest (COCI) and Security are adhered to. Disclosure of relationships or situations which may give rise to actual or potential COCI and submission

of information in response to Security/ Classification Requirements by specific contractual action is required. Additionally, contract clauses are used which require submission of monthly reports providing technical progress and financial status of the contracted effort where warranted for protection of the public interest.

Copies of the submittals may be inspected or obtained for a fee from the NRC Public Document Room 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer Vartkes L. Broussalian, (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 492–8132.

Dated at Bethesda, Maryland this 5th day of February 1988.

For the Nuclear Regulatory Commission.

**William G. McDonald,**

*Director, Office of Administration and Resources Management.*

[FR Doc. 88–3313 Filed 2–16–88; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket Nos. 50–413 and 50–414]**

## Duke Power Co. et al.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–35 and NPF–52, issued to Duke Power Company, et al., (the licensee), for operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The proposed amendments would revise Table 2.2–1, Technical Specification (TS) 3/4.2.3, and Figure 3.2–3, and would reduce the required Reactor Coolant System (RCS) total flow from 396,100 gpm to 387,600 gpm.

The licensee stated in its submittal, requesting the TS changes, dated February 10, 1988, that on January 13, 1988, following Catawba Unit 1 second refueling outage, a precision calorimetric test was conducted as required by TS surveillance requirement 4.2.3.5. This test resulted in the lowering of the RCS elbow tap flow coefficients which are used to convert elbow tap pressure drops to RCS flow rates. Upon insertion of the new constants into the operator aid computer, indicated RCS flow decreased to between 99.9% and 100.1% of the required flow. Because RCS flow was not consistently above 100% of the required flow, power was limited to 98% of the licensed power level of the unit in accordance with TS Figure 3.2–3. The fact that the RCS flow rate had remained constant throughout the past cycle and had returned to the same value (100.3%) following startup indicates that there is no degradation in actual RCS flow rate but that there is an amount of uncertainty attributable to the RCS flow measurement.

An investigation into the indicated decrease in RCS flow rate is being pursued by the licensee's and Westinghouse's personnel. One of the areas being investigated is the possibility that changes in RCS thermal streaming is causing a change in indicated hot and cold leg RTD temperatures. The precision heat balance calorimetric test is extremely sensitive to any uncertainty in this parameter.

All applicable FSAR postulated accidents and transients that have been analyzed used an assumed flow which is equal to, or conservative with respect to, the proposed TS flow of 387,600 gpm.

Certain Catawba FSAR Chapter 15 transients, those using the Improved Thermal Design Procedure (ITDP), are analyzed with a nominal flow rate of 387,600 gpm as outlined in the above submittal. The appropriate flow rate assumption for the Catawba FSAR Chapter 15 transients not using ITDP is the proposed TS minimum measured flow, 387,600 gpm, adjusted down by the flow uncertainty, 2.2%, to give 379,073 gpm. All of these transients are currently analyzed, as outlined in the above submittal, with flow rates less than this adjusted value and are therefore conservative.

The thermal hydraulic design analyses for the latest reload cores, Catawba 1 Cycle 3 and Catawba 2 Cycle 2, used the minimum measured flow of 387,600 gpm. It can be seen from this and from the preceding discussion of FSAP Chapter 15 analyses, that all applicable steady-state and transient core thermal-hydraulic analyses have been performed with flows equal to, or conservative with respect to, the proposed TS minimum measured flow.

RCS average temperature will remain unchanged with the change in minimum measured flow. This means that RCS initial fluid and metal stored energy will remain essentially unchanged. Further, a constant RCS average temperature implies that the driving temperature difference for primary-to-secondary heat transfer will remain essentially unchanged. These two parameters, initial energy content and rate of energy transfer across the steam generator tubes, are the means by which mass and energy releases influence containment response for the transients analyzed in Section 6.2.1 of the FSAR. Because the change in RCS flow is being made with a negligible change in RCS average temperature, the mass and energy releases calculated in Sections 6.2.1.3 through 6.2.1.5 of the FSAR will not be affected.

From the above discussions the licensee concluded that the revision to the TSs will not adversely impact the accident analyses documented in Sections 6.2.1 and 15 of the FSAR nor the steady-state thermal-hydraulic reload design analyses discussed in Section 4.4 of the FSAR.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee's submittal dated February 10, 1988, concluded that the requested TS changes do not involve a significant hazards consideration for the reasons set forth below.

(1) The proposed amendments would not involve a significant increase in the probability or consequences of any previously evaluated accident because all applicable accidents have already been revised using the RCS flow which is being proposed. The results of the analyses using the new flow assumptions have been found to be acceptable. Therefore, the current analyses will not be affected by this proposed change.

(2) The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated because the lower flow rate was accounted for in all applicable accident analyses. The results of the analyses using the new flow assumptions were found to be acceptable. No new modes of operation that have not been analyzed will be introduced.

(3) The proposed amendments would not involve a significant reduction in a margin of safety because all applicable

safety analyses were performed using the proposed flow rate or a flow rate which is conservative with respect to the proposed flow rate. All accident analyses results remain within acceptable limits and therefore the proposed change will not significantly impact the margin of safety.

Based on its review, the Commission agrees wtih the licensee's conclusion.

Accordingly, based on the reasons and conclusions given above, the Commission proposes to determine that the requested TS changes do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene are discussed below.

By March 18, 1988, The licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to interview shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitation in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendments involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If a final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Jon B. Hopkins: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel-White Flint, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filing of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a later petition and/or

request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated February 10, 1988 which is available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, DC and the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Dated at Rockville, Maryland on this 11th day of February 1988.

For the Nuclear Regulatory Commission.

**Jon B. Hopkins,**

*Acting Director, Project Directorate II–3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 88–3314 Filed 2–16–88; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket No. 50–219]**

## GPU Nuclear Corp. et al.; Consideration of Issuance of Amendment to Provisional Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR–16 issued to GPU Nuclear Corporation, et al. (GPUN or the licensee) for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

The amendment would provide new pressure-temperature (P–T) operating curves which were developed for operation beyond 10 effective full power years (EFPY) in accordance with the licensee's application for amendment dated January 19, 1988.

The new pressure-temperature limits were developed in accordance with the ASME Boiler and Pressure Vessel Code Section III Non-Mandatory Appendix G, Standard Review Plan Section 5.3.2, and 10 CFR Part 50 Appendix G. The adjusted reference nil-ductility temperature ($ART_{NDT}$) used to develop the new limits for operation through 15 EFPY was 125°F as identified in the licensee's Technical Data Report 725 Rev. 0 which was submitted on November 1, 1985. The Technical Data Report 725 provided results of testing and analyzing irradiated specimens removed from the Oyster Creek reactor vessel materials surveillance program capsule No. 2.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

This change is requested because the current Technical Specification requires that new pressure-temperature (P–T) operating curves be developed for operation beyond 10 effective full power years (EFPY).

Neutron irradiation results in the embrittlement of pressure vessel steels. The primary materials of concern are those surrounding the active core. To monitor the effects of irradiation on these materials, test specimens fabricated from the materials used to fabricate the reactor vessel are installed on the reactor vessel wall at the core mid-plane. Dosimetry wires are included which provide an estimate of the fluence to which the specimens were exposed. The specimens and wires are periodically removed, tested, analyzed, and the results evaluated to determine the extent of embrittlement as a function of fluence.

The property of concern is the reference nil-ductility temperature ($RT_{NDT}$) which increases as a function of fluence and material chemistry. Once the $RT_{NDT}$, fluence and material chemistry are known, predictions of $RT_{NDT}$ in the future can be made. P–T curves are developed based upon the adjusted $RT_{NDT}$ at the end of the operating period.

After Cycle 9, GPUN removed Reactor Vessel Materials Surveillance Program (RVMSP) Capsule No. 2. Its contents were tested and analyzed; the results were evaluated and predictions of $RT_{NDT}$ for various periods of operation were prepared.

The new P–T limits were developed through 15 EFPY based upon the predicted adjusted $RT_{NDT}$ after EFPY of operation. Based on the above, this proposed change would not:

1. Involve a significant increase in the probability of an accident because the new limits account for the measured increase in $RT_{NDT}$ due to neutron embrittlement. The current curves were based only upon estimates of fluence and material embrittlement. Therefore, the new limits are more precise.

2. Create the probability of a new or different kind of accident from any accident previously evaluated because the new limits are based on plantspecific measurements of fluence and toughness as opposed to estimates only. The calculation methodology for developing the new limits is the same as was used for the current limits. The system's configuration and function remain unchanged.

3. Involve a significant reduction in a margin of safety because the bases and methodology for developing the new limits are the same as those for the current limits.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland, from 7:30 a.m to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 18, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject provisional operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing

Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW. Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2000 N Street NW., Washington, DC 20037 attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presideing officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 19, 1988 which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Local Public Document Room, Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 10th day of February, 1988.

For The Nuclear Regulatory Commission.

**Alexander W. Dromerick,**

*Project Manager, Project Directorate I–4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 88–3315 Filed 2–16–88; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50–316]**

## Indiana Michigan Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–74 issued to the Indiana Michigan Power Company (the licensee) for operation of the D.C. Cook Nuclear Plant, Unit 2, located in Berrien County, Michigan.

The proposed amendment is the second of two submittals that request surveillance interval extensions for Unit 2, Cycle 6. The changes requested in this proposed amendment supplement the extension requests submitted in the licensee's amendment request dated October 28, 1987. Those changes were granted by the Commission's staff in Amendment No. 97 to Facility Operating License No. DPR–74. The proposed amendment would again change the Technical Specifications to allow certain tests normally designated as 18-month surveillances to be delayed until the end of the next refueling outage currently scheduled to begin during the second quarter of 1988. These tests include residual heat removal (RHR) auto-closure interlock test, steam generator snubber tests, control rod indication system functional testing, calibration of resistance temperature detectors (RTDs), testing of engineered

safety feature (ESF) manual actuation switches and channel calibrations and interlock testing involving the pressurizer pressure instrumentation. There are also two proposed editorial changes. These revisions to the Technical Specifications would be made in response to the licensee's application for amendment dated January 11, 1988.

The Commission has determined that failure to act in a timely manner to grant extensions for the RHR auto-closure interlock testing, steam generator snubber testing and Rod Position Indications Systems Functional Testing would result in shutdown of Unit 2. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment for these three requested extensions. The remaining three extension requests will be the subject of a separate notice.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission's standards for determining whether a significant hazards consideration exists are stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Therefore, in accordance with 10 CFR 50.91 and 50.92, the licensee has provided the following analysis:

(1) RHR Auto-closure Interlock Test

*Criterion 1*

The surveillance test history of the auto-closure interlock has shown that the system is highly reliable, and gives us no reason to believe the equipment would be inoperable during an extension period. The wide-range pressure transmitters, which provide input into the auto-closure interlock, will have a current calibration. Additionally, we note that when the RHR system is not in service, power is removed from the suction valve operators, thus preventing inadvertent valve opening and eliminating the need for the auto-closure interlock. For these reasons, we believe the extension we are requesting will not result in a significant increase in the probability or consequences of a previously evaluated accident, nor will it result in a significant reduction in a margin of safety.

*Criterion 2*

This extension will not result in a change in plant configuration or operation. Therefore, the extension should not create the possibility of a new or different kind of accident from any previously evaluated or analyzed.

*Criterion 3*

See Criterion 1, above.

(2) Steam Generator Snubbers

*Criterion 1*

Thirteen steam generator snubbers have been functionally tested at the Cook Nuclear Plant since 1983 with only one failure, the cause of which was not generic. Visual inspections have been performed on snubbers since 1975, revealing no problems or potential problems. Based on this surveillance history, we have no reason to believe the steam generator snubbers will be inoperable during the extension period. Thus, it is believed that this change will not result in a significant increase in the probability or consequences of a previously evaluated accident, nor will it significantly reduce a margin of safety.

*Criterion 2*

Delaying the snubber functional test will not result in a change in plant design or operation. Therefore, we believe that the change will not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated.

*Criterion 3*

See Criterion 1, above.

(3) Rod Position Indication System Functional Testing

*Criterion 1*

T/S-required comparison of the RPI channels to the demand position indication system would be expected to indicate significant degradation in the RPI channels. In addition, other surveillance, such as the determination of the quadrant power tilt ratio and incore flux mapping, provide a comparison of core performance to design and would be expected to indicate significant deviations of the control rods from their indicated position. Also, the RPI channel surveillance history is good and provides no reason to believe the channels would be inoperable during the extension period. For all these reasons, we believe the change will not involve a significant increase in the probability or consequences of a previously analyzed accident and that it will not involve a significant reduction in a margin of safety.

*Criterion 2*

The proposed change will not result in a change in plant configuration or operation. Thus, the change should not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated.

*Criterion 3*

See Criterion 1, above.

The Commission's staff has reviewed the licensee's no significant hazards consideration determinations and concurs with the licensee's analysis. Therefore, the staff proposes to determine that the portion of the application for amendment requesting time extensions for testing the RHR auto-closure interlock, the steam generator snubbers and the Rod Position Indication System involves no significant hazards consideration.

If the proposed determination becomes final, an opportunity for a hearing will be published in the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendment.

If the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to Martin Virgilio, Director of Project Directorate III-1, by collect call to 1-301-492-1315 or submitted in writing to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. All comments received by February 25, 1988, will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room 1717 H Street, NW., Washington, DC, and at the Maude Preston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland, this 10th day of February, 1988.

For the Nuclear Regulatory Commission.

**John J. Stefano,**

*Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V & Special Projects.*

[FR Doc. 88-3316 Filed 2-16-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-22063, License No. 29-20777-01, EA 87-156]

## Precision Materials Corp.; Order Revoking License

I

Precision Materials Corporation, Replogle Avenue, Mire Hill, New Jersey 07801, (the "licensee") is the holder of Byproduct Material License No. 29-20777-01, which authorizes the licensee to possess a maximum of 2,000,000 curies of cobolt-60 as sealed sources for use in a custom designed OMEGA irradiation for irradiation of certain materials. The license was issued by the Nuclear Regulatory Commission (the "Commission" or "NRC") on March 29, 1985, was most recently amended on January 28, 1986, and is due to expire on March 31, 1990. The licensee currently does not possess any radio-active material, having transferred all licensed material to an authorized recipient as of December 15, 1987.

II

On September 4, 1987, the NRC issued an Order Modifying License (Effective Immediately) to the licensee which required (1) the suspension of operations at the facility, (2) placement of the radioactive sources in NRC approved storage or shipping casks and daily monitoring of the storage pool until such storage was accomplished; (3) either submittal of a plan to the NRC for resumption of operations, or transfer of the radioactive sources to an authorized recipient (and submittal of a plan to the NRC for subsequent shipment of waste, decontamination of the facility and release of the facility for unrestricted use); and (4) telephone notification to the NRC prior to any movement of the sources from the pool and/or the facility.

The Order was issued because the NRC no longer had reasonable assurance that use or storage of licensed material at the facility would be performed safely and in accordance with the terms of the license, given the financial status of the licensee, the planned resignations of the President and Vice President (the then two remaining Radiation Safety Officers), the apparent lack of sufficient technical knowledge of facility design and operation by any remaining employee, officer or director of the licensee, and a continuing problem of water leakage from the irradiator pool.

III

Since the Order Modifying License was issued on September 4, 1987, the NRC has confirmed that the licensee has ceased operations, transferred all NRC licensed radioactive sources to an authorized recipient, successfully decontaminated the facility so that it can be released for unrestricted use, transferred all waste generated during the cleanup effort to an authorized recipient, and no longer employes individuals qualified to engage in licensed activities. By letter dated December 22, 1987, the NRC notified you that no plan had been submitted by PMC for resumption of licensed activities, and that unless a plan was submitted within 10 days of the date of that letter, the NRC would take action to terminate the NRC license for the PMC facility. As of this date, the licensee has not submitted any plan for resumption of licensed activities. 10 CFR 30.61(b) provides, in part, that any license may be revoked because of conditions revealed by an inspection or other means which would warrant the Commission to refuse to grant a license on an original application. As part of those requirements for an original application, as set forth in 10 CFR 30.33, an applicant must be qualified by training and experience to use the material for the purpose requested in the license in such a manner as to protect health and minimize danger to life or property. Presently, this licensee has no licensed material or qualified individuals to use the material in such a manner as to protect the public health and safety and to minimize danger to life or property. Moreover, notwithstanding the opportunities to submit a plan for resumption of licensed activities in response to the NRC Order of September 4, 1987 and an NRC letter dated December 22, 1987, the licensee has not made any submittals to the NRC which describe such a plan. Permitting resumption of licensed activities under these circumstances would be contrary to the public health and safety and keeping the license in effect serves no purpose. Therefore, I have determined that the public health, safety and interest, require that this license should be revoked.

IV

Accordingly, pursuant to Sections 81, 161(b) and (i), 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 30.61, it is hereby ordered that license No. 29-20777-01 is revoked.

V

The licensee or any other person adversely affected by this Order may request a hearing within 30 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). Upon the failure of the licensee to answer or request a hearing within the specified time, this Order shall be final without further proceedings.

If a hearing is requested, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland this 10th day of February 1988.

For the Nuclear Regulatory Commission.

**James M. Taylor,**

*Deputy Executive, Director for Regional Operations.*

[FR Doc. 88-3317 Filed 2-16-88; 8:45am]

BILLING CODE 7590-01-M

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[Docket No. 40-08027, License No. SUB-1010, EA 87-108]

## Sequoyah Fuels Corp.; Order Imposing Civil Monetary Penalty

I

Sequoyah Fuels Corporation, Sequoyah Fuels Facility, Gore, Oklahoma, (the licensee) is the holder of Source Material License No. SUB-1010 issued by the Nuclear Regulatory Commission (NRC/Commission). The license authorizes the licensee to possess and use source material for the purpose of refining uranium from uranium ore concentrates and converting this uranium to uranium hexafloride ($UF_6$) for use in enrichment facilities. The license was most recently renewed on September 20, 1985, and will expire on September 30, 1990.

II

Following an accident on January 4, 1986 in which a cylinder overfilled with uranium hexaflouride ruptured while being heated in a steam chest, the NRC conducted a series of special inspections and investigations at the licensee's Sequoyah Fuels Facility, Gore, Oklahoma.

The NRC investigations of the accident and the management and operation of the Facility sought information concerning possible overfilling and heating of $UF_6$ cylinders, and whether supervisory personnel had knowledge of and acquiesced in these practices to the extent they violated authorized procedures. Also, in January 1986, the NRC requested Kerr-McGee Corporation, owner of Sequoyah Fuels Corporation, to provide information to enable the NRC to respond to questions from members of Congress concerning the accident. As a result of the NRC investigations, the NRC concluded that the licensee had not conducted its activities in full compliance with NRC requirements in that a material false statement was submitted in response to the NRC request for information. A written Notice of Violation and Proposed Imposition of Civil Penalty was served on the license by letter dated September 1, 1987. The Notice stated the nature of the violation, the provision of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violation. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty by letter dated September 25, 1987.

III

After consideration of the licensee's response denying the violation and the statements of fact and explanation contained therein, the Dupty Executive Director for Regional Operations has determined, as set forth in the Appendix to this Order, that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (ACT), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Eight Thousand Dollars ($8,000) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk Washington, DC 20555.

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement, Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy of the Assistant General Counsel for Enforcement at the same address, and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at the hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referred to in Section 11 above, and

(b) Whether, on the basis of that violation, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 10th day of February 1988.

**James M. Taylor,**

*Deputy Executive Director for Regional Operations.*

**Appendix—Evaluation and Conclusions**

On September 1, 1987, a Notice of Violation and Proposed Imposition of Civil Penalty (NOV) was issued to Sequoyah Fuels Corporation (SFC) for the violation identified during investigations following a January 4, 1986, accident. SFC responded to the Notice of September 25, 1987. In its response, SFC denied the violation.

The NRC's evaluation and conclusion regarding the licensee's arguments are as follows:

*I. Restatement of Violation*

In January 1986 the NRC requested the Kerr-McGee Corporation, owner of Sequoyah Fuels Corporation, to provide information to enable the NRC to respond to members of Congress. Question 11 asked:

> Did company supervisory or management personnel approve of the practice of reheating overfilled cylinders at the Sequoyah plant, or have any knowledge of this procedure? Had other overfilled cylinders ever been reheated before at this facility, and if so was it with or without the knowledge of management? List all instances where overfilled cylinders were reheated.

In a letter dated January 29, 1986, and signed by the Director, Nuclear Licensing and Regulation, the Kerr-McGee Corporation responded to the question propounded by the NRC as follows:

*Management personnel had no knowledge* that any such practice was ever followed at the Sequoyah Facility and had specifically prohibited it. The written procedure for "Uranium Hexafluoride Product Handling and Shipping", a copy of which is attached, prominently states in two places:

> Note: Do not heat a cylinder which has been overfilled. Evacuate the overfilled cylinder without heating until the maximum net weight is attained. This is necessary to prevent rupture of the cylinder due to hydrostatic pressure.

Interviewing of employees and reviewing of records are continuing in order to determine whether there have been any instances of cylinder overfilling in the past, and if overfilling has occurred, the nature and degree of overfilling and what steps were taken by the company. (Emphasis added)

Contrary to Section 186 of the Atomic Energy Act of 1954, as amended, the statement made in the January 29, 1986, letter than "management personnel had no knowledge that any such practice was ever followed" constitutes a material false statement. The statement is false in that, although the question sought information regarding the approval or knowledge of supervisory or management personnel regarding reheating overfilled cylinders, the response omitted mention of supervisory personnel although the licensee had knowledge that some supervisors knew of this practice. This statement had the ability to mislead the NRC in that it omitted information regarding the licensee's knowledge that supervisors knew of the practice and, to the contrary, gave the impression that supervisory personnel did not know of or approve of the heating of overfilled cylinders. In fact, the licensee had information that some supervisors did know of the practice, and the response to the question as it was first drafted was modified as a result of the licensee's knowledge that supervisors knew of this practice. The statement was material in that it addressed an issue that was important for the NRC to resolve in ensuring that the plant would be operated safely before authorizing restart of operations and had the capability of influencing the NRC with regard to its resolution of this issue and in preparing and submitting the NRC's response to Question 11 to Congress.

This statement constitutes a material false statement and is a Severity Level II violation (Supplement VII).

*Summary of Licensee's Response.*

The licensee denies the violation, stating that its failure to mention "supervisory personnel" in the answer to NRC was due to not having reached a conclusion on the entire group of "supervisory personnel" and there was no intent to mislead the Commission by omission of this information in the January 29, 1986, letter. The licensee states that SFC believed its answer to Question 11 was accurate in that "management personnel" had stated in interviews with licensee investigators that they did not know of any practice of heating overfilled cylinders and were not aware of such instances in the period prior to January 4, 1986, incident. The licensee notes that no statement as to "supervisory personnel" was made because of conflicting statements as to what constituted an "overfill" by supervisory and operating personnel during interviews conducted by SFC, and that its answer stated: "Interviewing of employees and reviewing of records are continuing * * *." The licensee also noted that interviews and document reviews were commenced the next weekend after the January 29, 1986 letter was transmitted to NRC. The results of this continuing investigation were reported to NRC on September 18, 1986, in response to the NRC's request dated September 10, 1986, and contained detailed imformation on this issue not possible to be reported on January 29, 1986.

Further, the licensee states that the individuals who were involved in preparation of the Kerr-McGee answer did not intend to mislead the NRC by omitting the mention of "supervisory personnel" and that SFC was aware that the NRC had conducted a more extensive inquiry than SFC had at the time of the January 29 letter. In addition, the licensee states that the NRC was not in fact misled by the SFC response in that the NRC response to Congress stated that first-line supervisors had apparently approved reheating of overfilled cylinders.

In addition, the licensee argues that it has operated the facility safely and responsibly since restart of operations and been completely candid in responding to all Commission inquiries, and for this reason, the civil penalty should be remitted.

*NRC Evaluation of Licensee's Response.*

Licensee management is responsible for ensuring that correct and complete information is provided to the NRC in regard to evaluation of the safety of licensed activities. The licensee's response admits knowledge of conflicting statements regarding overfilling of cylinders and the nature of past practices from interviews conducted by SFC prior to the January 29 letter to NRC, and that this information was omitted from the letter. The licensee's contention that the NRC had conducted a more extensive inquiry and already had sufficient knowledge of "supervisory personnel" involvement in these practices to preclude being misled is immaterial in that this does not abrogate the licensee's responsibility to respond to the NRC in a correct and complete manner. In addition, whether or not the licensee intended to mislead the Commission is irrelevant. The fact remains that the licensee's submission was false and material. It was clear from the NRC's request for information that the NRC intended to rely on the licensee's answer in evaluating this matter and responding to Congress. Therefore, the licensee has not provided a sufficient basis for withdrawal of this violation and the NRC staff concludes that this violation occurred as stated in the Notice. Furthermore, the fact that the licensee believes it has operated its facility safely since restart of operations and been candid in responding to Commission inquiries does not provide a sufficient basis for mitigation of this civil penalty which is based on the particular material false statement described above.

*II. NRC Conclusion*

The NRC concludes that the alleged violation occurred as stated in the Notice of Violation and that no mitigation of the civil penalty is warranted. Therefore, the proposed Civil Penalty in the amount of Eight Thousands Dollars ($8,000) should be imposed.

[FR Doc. 88-3318 Filed 2-16-88; 8:45 am]
BILLING CODE 7590-01-M

## SECURITIES AND EXCHANGE COMMISSION

### Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

February 10, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Catalyst Energy Corporation
Common Stock, $.10 Par Value (File No. 7-3010)

Clemente Global Growth Fund
Common Stock, $.01 Par Value (File No. 7-3011)

Commercial Credit Co.
Common Stock, $.01 Par Value (File No. 7-3012)

Constar International Inc.
Common Stock, $.50 Par Value (File No. 7-3013)

MDC Holdings, Inc.
Common Stock, $.01 Par Value (File No. 7-3014)

PNC Financial Corporation
Common Stock, $5.00 Par Value (File No. 7-3015)

Russ Togs, Inc.
Common Stock, $.10 Par Value (File No. 7-3016)

Shaw Industries Inc.
Common Stock, No Par Value (File No. 7-3017)

Valhi Inc.
Common Stock, $1.00 Par Value (File No. 7-3018)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 3, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 88-3351 Filed 2-16-88; 8:45 am]
BILLING CODE 8010-01-M

## Self-Regulatory Organizations; Applications for United Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

February 10, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Calton, Inc.
Common Stock, $0.01 Par Value (File No. 7-3002)
IMC Fertilizer Group, Inc.
Common Stock, $1.00 Par Value (File No. 7-3003)
Mercantile Stores Company, Inc.
Common Stock, $0.36 2/3 Par Value (File No. 7-3004)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 3, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

*Secretary.*

[FR Doc. 88-3352 Filed 2-16-88; 8:45 am]

BILLING CODE 8010-01-M

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**[Rel. No. IC-16259; 812-6329]**

## Oxford Acceptance Corp; Application

February 9, 1988.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

*Applicant*: Oxford Acceptance Corporation.

*Relevant 1940 Act Sections*: Exemption requested under section 6(c) from all provisions of the 1940 Act.

*Summary of Application*: Applicant seeks a conditional order amending an existing Order (Investment Company Act Release No. 15332, September 26, 1986) which exempted Applicant from all provisions of the 1940 Act to permit the issuance and sale of adjustable rate bonds and equity interests.

*Filing Date*: The application was filed on April 10, 1987 and amended on October 9, 1987, January 21, 1988 and January 29, 1988.

*Hearing or Notification of Hearing*: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 4, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 4550 Montgomery Avenue, Suite 300, Bethesda, Maryland 20814.

**FOR FURTHER INFORMATION CONTACT:** Curtis R. Hilliard, Special Counsel (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

### Applicant's Representations.

1. Applicant is a limited purpose corporation formed in Delaware. One hundred percent of Applicant's common stock is currently owned by Leo Zickler, individually. It is the intent of Mr. Zickler to sell all of the issued and outstanding shares of capital stock of Oxford Acceptance Corporation to Montgomery Capital Corporation a company incorporated in the state of Delaware and whose primary business is structured mortgage finance. Upon such sale Oxford Acceptance Corporation would be retitled Montgomery Acceptance Corporation, and an amendment to the application will be filed setting forth the details of the sale, including the persons controlling Montgomery Capital Corporation. In the event the Applicant sells its equity interest in the future, other than the sale contemplated as described in the preceding sentence, and such sale results in the transfer of control (as that term is defined in Rule 405 under the 1933 Act) of the Applicant, the relief afforded the Applicant will not apply to subsequent bond offerings by the Applicant unless the Applicant has applied for an amended order identifying the proposed transferee and such order, as amended, has been granted. (Such application to amend will be limited in scope to the description of the proposed transfer.)

2. Applicant was organized for the limited purpose of (i) issuing and selling bonds (the "Bonds") under any indenture; (ii) issuing and selling subordinated debt; (iii) loaning funds of the Applicant to borrowers under loan agreements which are secured by mortgage collateral or other debt obligations secured by any combination of mortgage collateral; and (iv) engaging in other activities that are incidental or necessary to accomplish the foregoing. Applicant will not engage in any unrelated business or investment activities. Applicant may at times issue and sell subordinated indebtedness, provided that such issuance or sale does not result in the downgrading of the Bonds of any series by the rating agency rating the Bonds. Applicant may also, from time to time, transfer its rights to amounts remitted or to be remitted to it by the trustee under any indenture. Such amounts may represent fees or excess cash flow due the Applicant which would be free from the lien of the indenture.

3. Applicant will issue one or more series (each a "Series") of Bonds under a prospectus (the "Prospectus") and a related prospectus supplement for each Series (each a "Prospectus Supplement") pursuant to a registration statement or statements filed with the Securities and Exchange Commission. Each Series of Bonds will be rated in one of the two highest bond rating categories by an unaffiliated nationally recognized statistical rating organization. Each Series will be secured primarily by collateral (the "Bond Collateral") either acquired by the Applicant or pledged to the Applicant. The Bond Collateral will consist primarily of interest in some combination of the following (collectively, the "Mortgage Collateral"): (i) "fully-modified pass-through" certificates fully guaranteed as to principal and interest by the

Government National Mortgage Association ("GNMA Certificates"), mortgage participation certificates issued and guaranteed by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), mortgage pass-through certificates issued and guaranteed by the Federal National Mortgage Association ("FNMA Certificates"), stripped mortgage-backed securities issued by GNMA, FHLMC or FNMA, and stripped mortgage-backed securities issued by Applicant ("Splits").[1] (collectively, the "Mortgage Certificates"); (ii) mortgage loans secured by first liens on residential properties ("Mortgage Loans"); and (iii) funding agreements secured by Mortgage Certificates and Mortgage Loans and, if provided in such funding agreements, one or more related promissory notes (the "Funding Agreements") evidencing loans made by the Applicant to entities engaged in real estate and mortgage finance that are primarily in the business of originating or acquiring mortgage loans and mortgage certificates and as further described in the Application. Such entities or affiliates are referred to herein as the "Participants".) The Bond Collateral whether acquired by or pledged to the Applicant will be pledged to secure only the Bonds of that Series.

4. Each Series of Bonds will consist of one or more classes (each a "Class") of Bonds and will be issued pursuant to an indenture between the Applicant and an independent trustee (the "Trustee"), as supplemented by a supplemental indenture for such Series (the "Indenture"). Applicant may elect to treat the collateral securing a Series of Bonds as a "real estate mortgage investment conduit" (a "REMIC") pursuant to the Internal Revenue Code of 1986. Each Series of Bonds may consist of one or more Classes of current-pay Bonds or compound interest Bonds or adjustable interest rate Bonds. Classes of Bonds bearing interest at an adjustable interest rate will be subject to a maximum interest rate and a minimum interest rate in the case of an inverse adjustable interest rate Class of Bonds.

5. The Mortgage Collateral for each Series of Bonds will have a projected cash flow sufficient, together with other collateral and reinvestment income at assumed rates acceptable to the rating agency that initially rates the Bonds (or the contractually agreed rate provided by a Guaranteed Investment Contract described below) (the "Reinvestment Income"), to make payment on the Bond of such Series in accordance with their terms. The Indenture will require that an independent public accountant certify to the Trustee at least annually that the remaining Bond Collateral is sufficient, together with such Reinvestment Income, to make all required payments on the Bonds.

6. Simultaneously, with the closing of the sale of the Bonds, the Applicant may use all or a portion of the net proceeds of such sale to purchase the Mortgage Collateral in privately negotiated transactions from Participants or from others. In additon, a Participant may pledge Mortgage Collateral pursuant to a Funding Agreement or may sell Mortgage Collateral to the Applicant or to an affiliate of the Applicant in connection with the issuance of a Series of Bonds.

7. In the case of the sale of Mortgage Collateral to Applicant by a Participant, such Participant may sell such Mortgage Collateral to Applicant in exchange for all or part of the net proceeds of the sale of the related Series of Bonds. Applicant will pledge its entire right, title and interest in such purchased Mortgage Collateral to the Trustee under the Indenture as security for the Bonds except as provided in the Indenture. If the Mortgage Collateral for a Series of Bonds is pledged to Applicant by a Participant pursuant to a Funding Agreement, all or part of the net proceeds of the sale of the related Series of the Bonds will be loaned by Applicant to the Participant, which in turn will use some or all of such proceeds in its general business or to repay indebtedness to lenders or others that was incurred in connection with the funding or origination of mortgage loans financed by it. The Participants will repay the loans made to them by Applicant by making, or causing to be made, payments on the Mortgage Collateral to the Trustee on behalf of Applicant in such amounts as are necessary to pay the principal and the interest on the Bonds secured by such pledged Mortgage Collateral as the same shall become due.

8. Applicant, with respect to a Series of Bonds, will assign its entire right, title, and interest, except as provided in the Indenture, in any Mortgage Collateral it acquires or pledged to it pursuant to a Funding Agreement, and its right, title and interest in the Funding Agreement itself, to the Trustee under the Indenture as security for such Series of the Bonds. As to each Series of Bonds, the Indenture and the related Indenture Supplement for such series will establish that the Trustee has a perfected first security interest in the Bond Collateral, which lien relates solely to the Bonds of such Series and to no other Series issued under the Indenture. Such Bond Collateral will be sufficient to produce a cash flow sufficient, together with Reinvestment Income thereon, to support the Applicant's obligations to the Bondholders. In no event will the collateral value of the Mortgage Collateral pledged to secure a Series of Bonds exceed 120% of the aggregate principal amount of such Bonds. In the absence of a continuing event of default and with certain specified exceptions as provided in the related Indenture and Indenture Supplement for a Series of Bonds, excess amounts and funds not required to pay principal and interest on the Bonds (the "Residual Interest") following a payment date will be released from the lien of the Indenture.

9. Applicant may convey the rights to the Residual Interest relating to a Series of Bonds secured by either Mortgage Loans or Mortgage Certificates to third parties (such third party entities as described below). Applicant, however, unless the Residual Interest is transferred to a Participant pursuant to the terms of a Funding Agreement, will not transfer the Residual Interest that represents excess amounts released by the Trustee for a Series of Bonds that is secured by Bond Collateral that consists of Mortgage Collateral that is a combination of Mortgage Loans and Mortgage Certificates. Any such conveyance of the Residual Interest by the Applicant will provide for the payment of Bond expenses including Trustee fees either by the Applicant, the Residual Interest holders or some other means acceptable to the rating agency or agencies rating the Bonds; however in no event will the Bondholders be liable for such Bond's expenses nor will the

[1] SPLITS are similar to Stripped Mortgage-Backed Securities issued by GNMA, FHLMC and FNMA in that SPLITS are issued in series of two or more classes, with each class representing a specified undivided fractional interest in principal distributions and/or interest distributions on the underlying pool of assets, and the fractional interests of each class are not identical but in the aggregate represent 100% of the principal and interest distributions on the particular pool. In addition, each series of SPLITS (a) will be rated in one of the two highest rating categories by at least one nationally recognized statistical rating agency, (b) will represent an underlying pool of assets consisting entirely of "fully-modified, pass-through" mortgage-backed certificates fully guaranteed by GNMA, Mortgage Participation Certificates issued by FHLMC or Guaranteed Mortgage Pass-Through Certificates issued by FNMA and (c) will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. Use of SPLITS as collateral for Bonds will not reduce the security afforded to Bondholders nor expose them to a level of risk significantly different from that present in a Series of Bonds directly secured by the certificates guaranteed by FNMA, GNMA or FHLMC in which the SPLITS represent an interest.

method of payment of such expenses impair the rights of the Bondholders.

10. The Residual Interest relating to a Series of Bonds will only be conveyed to entities that are either: (i) Institutions or (ii) non-institutions that are "accredited investors" as defined in Rule 501(a) of the Securities Act of 1933. Institutional investors will have such knowledge and experience in financial and business matters as to be capable to evaluate the risks of purchasing a Residual Interest and understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and the residual interest therein. Non-institutional accredited investors that purchase a Residual Interest relating to a Series of Bonds will be limited to no more than 15, will purchase at least $200,000 of such Residual Interest and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Further, non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing a Residual Interest and will have direct, personal and significant experience in investments in mortgage-related securities and because of such knowledge and experience, understand the volatility of interest rate fluctuations as they affect the value of mortgage-related securities and the residual interest therein. Residual Interest holders will include mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds (each such mutual fund being required to satisfy itself that the purchase of a Residual Interest will comply with section 12(d)(1) of the 1940 Act), real estate investment trusts, master limited partnerships and/or other institutional or non-institutional investors as described above (institutional and non-institutional investors together referred to herein as "Eligible Purchasers").

11. A Residual Interest holder will not be an affiliate (as the term "affiliate" is defined in Rule 405 under the Securities Act of 1933 (17 CFR 230.405) of the Trustee nor any rating agency rating the related Series of Bonds. Residual Interest holders will not be able to alter the Mortgage Collateral initially deposited by the Applicant with the Trustee with respect to the related Series of Bonds, except to the extent permitted by the limited right to substitute Mortgage Collateral as described herein.

12. Each Class of adjustable interest rate Bonds for a Series will have a set maximum interest rate (an "interest rate cap") or minimum interest rate in the case of an inverse adjustable interest rate Class of Bonds. The Indenture Supplement for each Series of Bonds will specify: (a) That the interest rate on any Class of adjustable interest rate Bonds will be adjusted at the beginning of each adjustable interest rate period, (b) that the interest rate will generally be some fraction of one percent per annum above the index set forth in the Indenture Supplement (often this index is the arithmetic mean of London interbank offered quotations for one or three-month Eurodollar deposits ("LIBOR") prevailing on the determination date of such interest rate, or, in the case of an inverse-adjustable interest rate Bond, a set rate of interest, less some multiple based on such index), (c) the maximum rate of interest (the "interest rate cap") that will be payable on the Bonds (or the minimum rate of interest, in the case of an inverse-adjustable interest rate Bond) and (d) the date and time at which each adjustable interest rate will be determined.

13. The Bonds may provide for monthly, quarterly, semi-annual or annual payments of principal and interest. In the event that principal payments on the Bonds are made other than on a monthly basis, the Bonds may provide for mandatory special redemptions to the extent that principal payments on the Mortgage Collateral cannot be invested at a rate that will provide sufficient income to pay interest on the Bonds. In addition, all or a portion of the Bonds of a Series may be subject to redemption at the option of the Applicant at any time on or after a date and at the redemption price specified in the Indenture and disclosed in the Prospectus Supplement or private placement memorandum relating to such Series of Bonds.

14. Each Series of Bonds offered publicly will be sold to institutional or retail investors (the "Bondholders") through one or more investment banking firms in firm commitment underwritten public offerings or private placements. The Indenture for each public offering will be qualified under the provisions of the Trust Indenture Act of 1939, unless an appropriate exemption therefrom is available.

**Applicant's Conditions**

As a condition to this Application and to the issuance of any Series of Bonds, the Applicant consents to the following conditions:

*A. Conditions Relating to the Mortgage Collateral for the Bonds*

(1) Each Series of Bonds will be registered under the Securities Act of 1933 (the "Securities Act") unless offered in a transaction exempt from registration pursuant to section 4(2) of the Securities Act or because such Series of Bonds is offered and sold outside the United States to non-U.S. persons in reliance upon an opinion of U.S. counsel that registration is not required. No single offering of the Bonds sold within and outside the United States would be made without registration of all such Bonds under the Securities Act of 1933 without obtaining a no-action letter permitting such offering or otherwise complying with the applicable standards then governing such offerings. In all cases the Applicant will adopt agreements and procedures reasonably designed to prevent such debt securities from being offered or sold in the United States or to U.S. persons (except as U.S. counsel may then advise is permissible). Disclosure provided to purchasers located outside the United States will be substantially the same as that provided to U.S. investors in United States offerings;

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended, and, in addition, the Mortgage Certificates pledged to secure a Series of Bonds will be GNMA Certificates, FNMA Certificates or FHLMC Certificates and mortgage-backed instruments or securities secured by or representing interests in a pool of GNMA, FHLMC or FNMA securities;

(3) New Mortgage Loans may be substituted for Mortgage Loans initially pledged as Mortgage Collateral only in the event of default, late payments or defect in the Mortgage Loans being replaced; if new Mortgage Collateral is substituted for Mortgage Collateral initially pledged for a Series of Bonds the substituted Mortgage Collateral will: (a) Be of equal or better quality than the Mortgage Collateral replaced, (b) have similar payment terms and cash flows as the Mortgage Collateral replaced, (c) be insured or guaranteed to the same extent as the Mortgage Collateral replaced, (d) meet the conditions of (2), (4), and (6) herein and (e) no more than 20% of the aggregate face amount of the Mortgage Loans initially pledged as collateral for all Series of Bonds may be substituted with new Mortgage Loans and no more than 40% of the aggregate

face amount of the Mortgage Certificates initially pledged as collateral for all Series of Bonds may be substituted with new Mortgage Certificates. In no event may any new Mortgage Collateral be substituted for any substitute Mortgage Collateral;

(4) All collateral securing a Series of Bonds will be held by the Trustee or, on behalf of the Trustee, by an independent custodian that is not an affiliate of the Applicant (as the term "affiliate" is defined in Rule 405 of the Securities Act of 1933 (17 CFR 230.405) and the Trustee will have a first priority perfected security or lien interest in and to the Mortgage Collateral.

(5) Each Series will be rated in one of the two highest rating categories by an unaffiliated nationally recognized statistical rating agency; and the Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the Act;

(6) No servicer of a Mortgage loan may be an affiliate of the Trustee; each servicer of a Mortgage Loan will be approved by FNMA or FHLMC as an "eligible seller/servicer" of conventional, residual mortgage loans; and the agreement governing the servicing of Mortgage Loans shall obligate the servicer to provide substantially the same services with respect to the Mortgage Loans as it is then currently required to provide in connection with the servicing of mortgage loans insured by FNMA or FHLMC;

(7) At least annually, an independent public accountant will aduit the books and records of the Applicant and will report on whether the anticipated payments of principal and interest on the Mortgage Collateral together with the other collateral pledged to secure a Series of Bonds, continues to be adequate to pay principal and interest on such Bonds in accordance with their terms. Copies of the auditor's report will be provided to the Trustee;

*B. Conditions Relating to Variable-Rate Bonds*

(1) Each Class of adjustable interest rate Bonds will have a set maximum interest rate (an "interest rate cap") or a minimum adjustable interest rate in the case of inverse adjustable rate Bonds;

(2) At the time of deposit of the Bond Collateral with the Trustee for a Series of Bonds, as well as during the life of each such Series of Bonds, the projected payments of principal and interest to be received by the Trustee on all the Mortgage Collateral pledged to secure such Series of Bonds, plus reinvestment income thereon, and funds, if any, pledged to secure such Bonds will be sufficient to make all payments of principal and interest on the Bonds of such Series then outstanding assuming, for each Class of adjustable interest rate Bonds, that the Bonds of such Class will be paid at the maximum interest rate for such Class of adjustable interest rate Bonds.[2] Such collateral will be paid down as the Mortgage Loans and the mortgages underlying the Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds.

*C. Conditions Relating to Remic Election*

(1) Election to treat the collateral for a Series of Bonds as a REMIC or the decision to convey the Residual Interest relating to any Series of Bonds will have no effect on the level of the expenses that would be incurred for any such Series of Bonds nor the obligation of the Applicant to pay such expenses. Applicant further represents that the Indenture for any Series of Bonds for which such an election or decision will be made will provide that all administrative fees and expenses in connection with the administration of such Bonds will be paid or provided for as set forth in the application and in a manner satisfactory to the agency or agencies rating the Bonds. Applicant will ensure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which or all of the methods above (which methods may be used in combination) are selected to provide for the payment of such fees and expenses.

*D. Conditions Relating to the Sale of Residual Interests*

(1) Applicant agrees that if it conveys the Residual Interest relating to any Series of Bonds or if there is any resale of the Residual Interest relating to any Series of Bonds the following representations and warranties will apply:

(a) The Residual Interest will only be conveyed to Eligible Purchasers.

(b) The holders of the Residual Interest will agree to be bound by the terms of the Residual Purchase Agreement.

(c) Any conveyance of a Residual Interest will qualify as a transaction not involving a public offering within the meaning of section 4(2) of the Securities Act of 1933.

(d) Each Eligible Purchaser of a Residual Interest will represent that it is purchasing the Residual Interest for investment purposes only and that it will hold such Residual Interest in its own name and not as nominee for undisclosed investors.

(e) No Residual Interest holder will be affiliated with the Trustee, the custodian of the Mortgage Collateral (if different from the Trustee) or the rating agency or agencies rating the Bonds.

(f) The Applicant will only sell the Residual Interest relating to a Series of Bonds to 100 Eligible Purchasers of which no more than 15 will be non-institutional accredited investors.

(2) If the Applicant sells its equity interest in the future, other than the anticipated sale as described within the application, and such sale results in the transfer of control (as the term is defined in Rule 405 under the 1933 Act) of the Applicant, the relief afforded the Applicant will not apply to subsequent bond offerings by the Applicant unless the Applicant has applied for an amended order identifying the proposed transferee and such order, as amended, has been granted. (Such application to amend will be limited in scope to the description of the proposed transfer.)

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 88-3308 Filed 2-16-88, 8:45 am]

**BILLING CODE 8010-01-M**

[2] In the case of a Series of Bonds that contains a Class or Classes of adjustable rate Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to the adjustable rate Bonds. Procedures that have been identified to date for achieving this result include the use of (i) interest rate caps for the adjustable rate Bonds; (ii) "inverse" adjustable rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" adjustable rate Bonds); (iii) adjustable rate collateral to secure the Bonds; (iv) interest rate swap agreements (under which the issuer of the Bonds would make periodic payments to the counterparty at a fixed rate of interest based on a stated principal amount, such as the principal amount of Bonds in the adjustable rate Class, in exchange for receiving corresponding periodic payments from the counterparty at an adjustable rate of interest based on the same principal amount) and (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the adjustable rate Class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the Commission notice by letter of any such additional mechanisms before they are utilized in order to give the Commission an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and will be adequate to meet the standards required to maintain the rating on the Bonds and no Bonds will be issued for which this is not the case.

[Rel. No. IC-16260; 812-6315]

## Oxford Acceptance Corp. III; Application

February 9, 1988.

**AGENCY:** Securities and Exchange Commission

**ACTION:** Notice of Application for an Amended Order under the Investment Company Act of 1940 ("1940 Act").

*Applicant:* Oxford Acceptance Corporation III.

*Relevant 1940 Act Sections:* Exemption requested under section 6(c) from all provisions of the 1940 Act.

*Summary of Application:* Applicant seeks a conditional order amendment an existing order (Investment Company Act Release No. 15333, September 26, 1986) which exempted Applicant from all provisions of the 1940 Act to permit the issuance and sale of adjustable rate bonds and equity interests.

*Filing Date:* The application was filed on March 16, 1987 and amended on October 9, 1987, January 21, 1988 and January 29, 1988.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 4, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also sent it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant 4550 Montgomery Avenue, Suite 300, Bethesda, Maryland 20814.

**FOR FURTHER INFORMATION CONTACT:** Curtis R. Hilliard, Special Counsel (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

### Applicant's Representations

1. Applicant is a limited purpose corporation incorporated under the laws of the State of Maryland. Applicant states that it was organized for the purpose of: (i) Issuing and selling one or more series of bonds under one or more indentures, secured primarily by mortgage certificates, investing in certain mortgage certificates in connection therewith and investing cash balances on an interim basis in certain short term investments; (ii) investing on a non-recourse basis in operating subsidiaries; (iii) issuing and selling certain subordinated indebtedness; (iv) becoming the general partner in a limited partnership issuing and selling bonds secured by mortgage certificates, provided that no such action will result in the reduction in the ratings then assigned to Applicant's bonds; (v) transferring its rights to any amounts remitted or to be remitted to Applicant by the trustee under any indenture; and (vi) engaging in other activities that are necessary, suitable or convenient to accomplish the foregong or are incidential thereto or convenient to accomplish the foregoing or are incidental thereto or connected therewith. However, Applicant states that although its Articles of Incorporation permit it to engage in the activities enumerated above, Applicant represents as a condition of the application that (A) it will not invest on a non-recourse basis in operating subsidiaries and (B) will not become the general partner in a limited partnership. Applicant may at times issue and sell subordinated indebtedness provided that such issuance or sale does not result in the downgrading of the bonds of any series by the rating agency rating the bonds. Applicant may also, from time to time, transfer its rights to amounts remitted or to be remitted to it by the trustee under any indenture. Such amounts may represent fees or excess cash flow due the Applicant which would be free from the lien of the indenture.

2. All of the Applicant's issued and outstanding shares of capital stock are owned by one stockholder, Leo E. Zickler. It is the intent of Mr. Zickler to sell all of the issued and outstanding shares of capital stock of Oxford Acceptance Corporation III to Montgomery Capital Corporation, a company incorporated in the State of Delaware and whose primary business is structured mortgate finance. Upon such sale Oxford Acceptance Corporation III would be retitled Montgomery Acceptance Corporation III, and an amendment to the application will be filed setting forth the details of the sale, including the persons controlling Montgomery Capital Corporation. In the event the Applicant sells its equity interest in the future, other than the sale contemplated as described in the preceding sentence, and such sale results in the transfer of control (as that term is defined in Rule 405 under the 1933 Act) of the Applicant, the relief afforded the Applicant will not apply to subsequent bond offerings by the Applicant unless the Applicant has applied for an amended order identifying the proposed transferee and such order, as amended, has been granted. (Such application to amend will be limited in scope to the descripion of the proposed transfer.)

3. Applicant proposes to issue and sell bonds (the "Bonds") in series (the "Series") from time to time under a prospectus ("Prospectus") and related prospectus supplements ("Prospectus Supplement"). A registration statement with respect to the Bonds has been filed with the Commission. Also, the Bonds may be sold pursuant to private placement memoranda. The Applicant may elect to treat the collateral securing a Series of Bonds as a "real estate mortgage investment conduit" (a "REMIC") pursuant to the Internal Revenue Code of 1986. Each Series of Bonds will consist of one or more classes ("Classes") of Bonds, one or more of which may be Classes of current-pay Bonds or compound interest Bonds or adjustable interest rate Bonds. Classes of Bonds bearing interest at an adjustable interest rate will be subject to a maximum interest rate and a minimum interest rate in the case of an inverse adjustable interest rate class of Bonds. Each Class of Bonds will bear a separate bond interest rate and stated maturity date as indicated in the Prospectus Supplement for such Series. Applicant represents that it will not issue any Bonds unless they are rated in one of the two highest bond rating categories by one or more unaffiliated nationally recognized rating agencies. Each Series of Bonds will be issued pursuant to an indenture ("Indenture") between the Applicant and an independent trustee under the Indenture ("Trustee"), as supplemented by one or more supplemental indentures (each a "Series Supplement"). The Indenture for each Series of Bonds will be qualified under the Trust Indenture Act of 1939, unless an appropriate exemption is available. The Indenture will not provide for redemption of the Bonds at the option of the Bondholders within the meaning of section 2(a)(32) of the Act.

4. Applicant states that each Series of Bonds will be secured separately by assignments to the Trustee of any combination of the following (collectively the "Mortgage Certificates"); (i) fully-modified pass-

through certificates ("GNMA Certificates") guaranteed by the Government National Association ("GNMA"); (ii) mortgage participation certificates ("FHLMC Certificates") issued by the Federal Home Loan Mortgage Corporation ("FHLMC"); (iii) guaranteed mortgage pass-through securities ("FNMA Certificates") issued by the Federal National Mortgage Association ("FNMA"); (iv) Stripped Mortgage-Backed Securities issued by GNMA, FHLMC or FNMA; and stripped mortgage-backed securities issued by the Applicant ("Splits").[1] Applicant states that each Series of Bonds may also be secured by certain collection proceeds accounts, debt service funds and reserve funds.

5. The collateral pledged to the Trustee to collateralize the Bonds of any Series will consist of (a) Mortgage Certificates having an initial collateral value equal to at least 100% of the initial principal amount of the Bonds and (b) to the extent applicable a Reserve Fund, a GPM Fund and a Minimum Principal Payment Agreement, all as defined more fully in the Application. The Indenture and the related Series Supplement for each Series of Bonds will establish that the Trustee has a perfected first security interest in the collateral for each such Series of Bonds. The collateral securing each Series of Bonds will serve as colateral only for that Series of Bonds. Applicant further states that the projected cash flow derived from payments of principal and interest on the Mortgage Certificates, together with reinvestment income thereon at the assumed reinvestment rate established by Applicant and approved by the rating agency (or the contractually agreed rate provided by a Guarantee Investment Contract) and payments from the Reserve or GPM Funds or Minimum Principal Payment Agreement, if any, is calculated to be sufficient to pay accrued interest on the Bonds and to amortize the entire principal amount of each Class by its respective stated maturity.

6. In the absence of a continuing event of default and with certain specified exceptions as provided in the related Indenture and Series Supplement for a Series of Bonds, excess amounts and funds not required to pay principal and interest on the Bonds (the "Residual Interest") following a payment date will be released from the lien of the Indenture. Applicant may convey the rights to the Residual Interest relating to a Series of Bonds to third parties pursuant to the terms of a residual purchase agreement ("Residual Purchase Agreement"). Any such conveyance of a Residual Interest relating to a Series of Bonds by Applicant will provide for the payment of Bond expenses including Trustee fees either by Applicant or some other means acceptable to the rating agency or agencies rating the Bonds; however, in no event will the Bondholders be liable for the Bond expenses nor will the method of payment impair the rights of the Bondholders.

7. The Residual Interest relating to a Series of Bonds will only be conveyed to entities that are either (i) institutions or (ii) non-institutions that are "accredited investors" as defined in Rule 501(a) of the Securities Act of 1933. Institutional investors will have such knowledge and experience in financial and business matters as to be capable to evaluate the risks of purchasing a Residual Interest and understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and the residual interest therein. Non-institutional accredited investors that purchase a Residual Interest relating to a Series of Bonds will be limited to no more than 15, will purchase at least $200,000 of such Residual Interest and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Further, non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing a Residual Interest and will have direct, personal and significant experience in investments in mortgage-related securities and because of such knowledge and experience, understand the volatility of interest rate fluctuations as they affect the value of mortgage-related securities and the residual interest therein. Residual Interest holders will include mortgag : lenders, thrift institutions, commercia and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds (each such mutual fund being required to satisfy itself that the purchase of a Residual Interest will comply with section 12(d)(1) of the 1940 Act) real estate investment trusts, master limited partnerships and/or other institutional or non-institutional investors as described above (institutional and non-institutional investors together referred to herein as "Eligible Purchasers").

8. A Residual Interest holder will not be an affiliate (as the term "affiliate" is defined in Rule 405 under the Securities Act of 1933 (17 CFR 230.405) of the Trustee nor any rating agency rating the related Series of Bonds. Residual Interest holders will not be able to alter the Mortgage Collateral initially deposited by the applicant with the Trustee with respect to the related Series of Bonds, except to the extent permitted by the limited right to substitute Mortgage Certificates as described herein.

**Applicant's Conditions**

Applicant agrees that the requested order will be expressly conditioned on the following:

*A. Conditions Relating to Bonds*

(1) Each Series of Bonds will be registered under the Securities Act of 1933, (the "Securities Act") unless offered in a transaction exempt from registration pursuant to section 4(2) of the Securities Act or because such Series of Bonds is offered and sold outside the United States to non-U.S. persons in reliance upon an opinion of U.S. counsel that registration is not required. No single offering of the Bonds sold within and outside the United States would be made without registration of all such Bonds under the Securities Act of 1933 without obtaining a non-action letter permitting such offering or otherwise complying with the applicable standards then governing such offerings. On all cases, the Applicant will adopt agreements and procedures reasonably designed to prevent such debt securities from being offered or sold in the United States or to U.S. persons (except as U.S. counsel may then advise is permissible). Disclosure provided to purchasers located outside the United States will be

[1] SPLITS are similar to Stripped Mortgage-Backed Securities issued by GNMA, FHLMC and FNMA in that SPLITS are issued in series of two or more classes, with each class representing a specified undivided fractional interest in principal distributions and/or interest distributions on the underlying pool of assets, and the fractional interests of each class are not identical but in the aggregate represent 100% of the principal and interest distributions on the particular pool. In addition, each series of SPLITS (a) will be rated in one of the two highest rating categories by at least one nationally recognized statistical rating agency, (b) will represent an underlying pool of assets consisting entirely of "fully-modified, passthrough" mortgage-backed certificates fully guaranteed by GNMA, Mortgage Participation Certificates issued by FHLMC or Guaranteed Mortgage Pass-Through Certificates issued by FNMA and (c) will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. Use of SPLITS as collateral for Bonds will not reduce the security afforded to Bondholders nor expose them to a level of risk significantly different from that present in a Series of Bonds directly secured by the certificates guaranteed by FNMA, GNMA or FHLMC in which the SPLITS represent an interest.

substantially the same as that provided to U.S. investors in United States offerings;

(2) Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. However, the Mortgage Certificates pledged to secure a Series of Bonds will be GNMA Certificates, FNMA Certificates or FHLMC Certificates and mortgage-related instruments or securities secured by or representing interests in a pool of GNMA, FNMA or FHLMC securities;

(3) If new Mortgage Certificates are substituted for Mortgage Certificates initially pledged for a Series of Bonds the substituted Mortgage Certificates will (a) be of equal or better quality than the Mortgage Certificates replaced, (b) have similar payment terms and cash flows as the Mortgage Certificates replaced, (c) be insured or guaranteed to the same extent as the Mortgage Certfificates replaced, (d) satisfy the other conditions set forth herein to the same extent as the Mortgage Certificates being replaced, (e) no more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged as collateral to secure all Series of Bonds may be substituted with new Mortgage Certificates. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates;

(4) All collateral securing a Series of Bonds will be held by the Trustee or on behalf of the Trustee by an independent custodian which is not an affiliate of the Applicant (as the term "Affiliate" is defined in Securities Act—Rule 405 17 CFR 230.405) and the Trustee will have a first priority perfected security or lien interest in and to the Mortgage Certificates;

(5) Each Series will be rated in one of the two highest rating categories by one or more unaffiliated nationally recognized statistical rating agencies; and the Bonds will not be considered redeemable securities within the meaning of section 2(a) (32) of the 1940 Act;

(6) At least annually, an independent public accountant will audit the books and records of the Applicant and will report on whether the anticipated payments of principal and interest on the Mortgage Certificates together with the other collateral pledged to secure a Series of Bonds, continues to be adequate to pay principal and interest on such Bonds in accordance with their terms. Copies of the auditor's report will be provided to the Trustee.

*B. Conditions Relating to Variable-Rate Bonds*

(1) Each Class of adjustable interest rate Bonds will have a set maximum interest rate (an "interest rate cap") or a minimum interest rate in the case of inverse adjustable rate Bonds;

(2) At the time of the deposit of the collateral with the Trustee for a Series of Bonds, as well as during the life of each such Series of Bonds, the projected payments of principal and interest to be received by the Trustee on all the Mortgage Certificates pledged to secure such Series of Bonds, plus reinvestment income thereon, and funds, if any, pledged to secure such Bonds will be sufficient to make all payments of principal and interest on the Bonds of such Series then outstanding assuming, for each Class of adjustable interest rate Bonds, that the Bonds of such class will be paid at the maximum interest rate on each such Class of adjustable interest rate Bonds. Such collateral will be paid down as the mortgage underlying the Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment of the Bonds.

*C. Conditions Relating to REMIC Election*

(1) Applicant hereby represents that the election to treat the collateral for a Series of Bonds as a REMIC or the decision to convey the Residual Interest relating to any Series of Bonds will have no effect on the level of the expenses that would be incurred for any such Series of Bonds. Applicant further represents that the Indenture for any Series of Bonds for which such an election is made will provide that all administrative fees and expenses in connection with the administration of such Bonds will be paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds. If Applicant elects to treat the collateral for such Series of Bonds as a REMIC or to convey the Residual Interest it will provide for the payment of administrative fees and expenses incurred in connection with the issuance of the Bonds and the administration of the collateral securing the Bonds by one of the methods or a combination of one or more of such methods described in the application.

*D. Conditions Relating to the Sale of Residual Interests*

(1) Applicant agrees that if it conveys the Residual Interest relating to any Series of Bonds or if there is any resale of the Residual Interest relating to any Series of Bonds the following representations and warranties will apply:

(a) The Residual Interest will only be conveyed to Eligible Purchasers.

(b) The holders of the Residual Interest will agree to be bound by the terms of the Residual Purchase Agreement.

(C) Any conveyance of Residual Interest will qualify as a transaction not involving a public offering within the meaning of section 4(2) of the Securities Act of 1933.

(d) Each Eligible Purchaser of a Residual Interest will represent that it is purchasing the Residual Interest for investment purposes only and that it will hold such Residual Interest in its own name and not as nominee for undisclosed investors.

(e) No Residual Interest holder will be affiliated with the Trustee, the custodian of the Mortgage Certificates (if different from the Trustee) or the rating agency or agencies rating the Bonds.

(f) The Applicant will only sell the Residual Interest relating to a Series of Bonds to 100 Eligible Purchasers of which no more than 15 will be non-institutional accredited investors.

(2) If the Applicant sells its equity interest in the future, other than the anticipated sale as described within the application, and such sale results in the transfer of control (as that term is defined in Rule 405 under the 1933 Act) of the Applicant, the relief afforded the Applicant will not apply to subsequent bond offerings by the Applicant unless the Applicant has applied for an amended order identifying the proposed transferee and such order, as amended, has been granted. (Such application to amend will be limited in scope to the description of the proposed transfer.)

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 88-3309 Filed 2-16-88; 8:45 am]

BILLING CODE 8010-01-M

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**[Rel. No. IC-16261; 812-6816]**

## Oxford Acceptance Corporation IV; Application

February 9, 1988.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

*Applicant:* Oxford Acceptance Corporation IV.

*Relevant 1940 Act Section:* Exemption requested under section 6(c) from all provisions of the 1940 Act.

*Summary of Application:* Applicant seeks a conditional order exempting it and each trust it establishes from all provisions of the 1940 Act in connection with the issuance of collateralized mortgage obligations by one or more trusts and the sale of beneficial ownership interests in such trust or trusts.

*Filing Date:* The application was filed on August 7, 1987, and amended on January 21 and 29, 1988.

*Hearing or Notification of Hearing:* If no hearing is ordered, the Application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on March 4, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. The Applicant should be served with the request, either personally or by mail, and also send it to the Secretary of the SEC along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date for a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 4550 Montgomery Avenue, Suite 300, Bethesda, Maryland 20814.

**FOR FURTHER INFORMATION CONTACT:** Brian P. Kindelan, Staff Attorney, (202) 272–2048, or Curtis R. Hilliard, Special Counsel, (202) 272–3030 (Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

**Applicant's Representations**

1. The Applicant is a limited-purpose corporation incorporated under the laws of the State of Delaware. One stockholder, Leo E. Zickler, owns all of the Applicant's issued and outstanding shares of capital stock. Mr. Zickler intends to sell all of the issued and outstanding shares of capital stock of the Applicant to Montgomery Capital Corporation, a company incorporated in the state of Delaware and whose primary business is structured mortgage finance. Upon such sale, Applicant would be retitled Montgomery Acceptance Corporation IV, and an amendment to the application will be filed setting forth the details of the sale, including the persons controlling Montgomery Capital Corporation.

2. Applicant was formed to act as the depositor (the "Depositor") of one or more trusts (each a "Trust") each pursuant to a trust agreement (a "Trust Agreement"). Each Trust Agreement will provide that each Trust will be restricted in its activities to (i) issuing and selling bonds in series (the "Bonds"), each pursuant to an indenture; and (ii) acquiring, owning, holding and pledging Mortgage Certificates (as hereinafter defined) in connection therewith; (iii) acquiring the rights to amounts remitted or to be remitted to entities issuing and selling Bonds secured by mortgage-related collateral; and (iv) engaging in such other activities that are necessary, suitable or convenient to accomplish the foregoing or are incidental thereto or connected therewith.

3. Each Trust will issue one or more series (each a "Series") of Bonds. Each series of Bonds issued by a Trust will constitute obligations solely of such Trust. Each Trust will be created under the laws of one of the states of the United States of America pursuant to a separate Trust Agreement between the Applicant, acting as settlor, depositor and sole beneficial owner, and an independent bank, trust company or other fiduciary, acting as owner trustee (the "Owner Trustee"). Under the terms of each Trust Agreement, the Applicant will convey trust property to the related Trust in return for certificates or other instruments evidencing beneficial ownership of the Trust created under such Trust Agreement ("Trust Certificates").

4. Once a Trust has issued all the Series to be issued by such Trust, the Applicant may sell all or a portion of the Trust Certificates representing the beneficial ownership in such Trust to (i) institutions or (ii) non-institutions that are "accredited investors" as defined in Rule 501(a) of the 1933 Act (each an "Eligible Purchaser").

5. Institutional investors will have such knowledge and experience in financial and business matters as to be capable to evaluate the risks of purchasing the Trust Certificates and to understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and residual interests therein.

6. Non-institutional accredited investors that purchase the Trust Certificates of a Trust will be limited to not more than 15, will purchase at least $200,000 of the Trust Certificates and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Further, non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing the Trust Certificates and will have direct, personal and significant experience in investments in mortgage-related securities and because of such knowledge and experience, understand the volatility of interest rate fluctuations as they affect the value of mortgage-related securities and residual interests therein. Owners will be limited to mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds (each such mutual fund being required to satisfy itself that the purchase of a Trust Certificate will comply with section 12(d)(1) of the Act), real estate investment trusts, master limited partnerships and/or other institutional or non-institutional investors as described above which customarily engage in the purchase of mortgages and mortage-related securities.

7. The Owners of the Trust will not be able to alter the Mortgage Certificates initially deposited by Applicant into the Trusts, except to the extent permitted by the limited right to substitute Mortgage Certificates as described herein and in no event will such right to substitute Mortgage Certificates result in a diminution of the value of the Mortgage Certificates.

8. Each Series of Bonds will be sold to institutional or retail investors in firm commitment underwritten public offerings or private placements. Each Series of Bonds will be sold pursuant to an offering circular, a prospectus or a private placement memorandum (referred to hereinafter, collectively, as a "prospectus") containing all material disclosures required by the terms of the 1940 Act, to the extent applicable. The Bonds will be issued by a Trust pursuant to an indenture (the "Indenture"), between such Trust and an independent trustee (the "Bond Trustee"). The Indenture for each Series of Bonds will be subject to the provisions of the Trust Indenture Act of 1939, unless an exemption from some or all of the provisions of such Act is available.

9. The Applicant will cause each Trust to issue Bonds which will be secured by Mortgage certificates consisting of any combination of "fully modified pass-through" mortgage-backed certificates fully guaranteed as to principal and interest by the Government National

Mortgage Association ("GNMA"); Mortgage Participation Certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC"); Guaranteed Mortgage Pass-Through Certificates issued by the Federal National Mortgage Association ("FNMA"); Stripped Mortgaged-Backed Securities issued by GNMA, FHLMC or FNMA; and stripped mortgage-backed securities issued by the Applicant ("SPLITS")[1] (collectively, the "Mortgage Certificates"). The Mortgage Certificates that initially secure the Bonds will have an aggregate "Collateral Value" (as defined in the related Indenture) at least equal to the principal amount of the Bonds. In addition to the Mortgage Certificates, the Bonds may be secured by: (i) Distributions on the Mortgage Certificates; (ii) cash, demand notes, a letter of credit or Eligible Investments (as defined in the Application) or any combination thereof, if required with respect to any Series to be deposited in the accounts and funds described below; (iii) the reinvestment income on such distributions and deposits; (iv) payments under any guaranteed investment contract; and/or (v) payments under any minimum principal payment agreement (collectively with the Mortgage Certificates, "Collateral"). The Collateral relating to a Series will include a separate collection account for each Series and may include a debt service reserve fund or other reserve funds and payments made under any guaranteed investment contract and minimum principal payment agreement, in each case as specified in the prospectus for a particular Series.

10. The Trust may elect to treat the Collateral securing a Series of Bonds as a "real estate mortgage investment conduit" (a "REMIC") pursuant to the Internal Revenue Code of 1986.

11. The Trust will pledge to the Bond Trustee as security for a Series of Bonds its entire right, title and interest in the Mortgage Certificates purchased by the Trust. The Mortgage Certificates will be held by the Bond Trustee or on behalf of the Bond Trustee by an independent custodian. Such independent custodian will not be an affiliate of the Applicant or the Owner Trustee.

12. Bonds of a Series may bear interest at fixed rates or at rates which vary in relation to an index specified in the related prospectus. Bonds bearing interest at a variable rate will be subject to maximum interest rates ("interest rate caps") or to minimum interest rates in the case of inverse variable rate Bonds. The maximum and minimum interest rates may vary from period to period, and always will be specified in the related prospectus. The Bonds will be structured so that the cash flow generated by the related Mortgage Certificates securing the Bonds, together with the other Colleteral, plus the reinvestment earnings thereon at the assumed reinvestment rate specified in the related prospectus (which rate will be no greater than the maximum rate permitted by the rating agency or agencies rating such Series) will be sufficient to provide for the full and timely payment of the Bonds of such Series (even if the interest rates on variable rate Bonds were the maximum applicable interest rates for each specified period).

13. The Applicant anticipates that one or more Series of Bonds may consist of one or more classes of Bonds (each a "Class"). Some Classes may have stated maturity dates earlier or later than other Classes of such Series. The Classes with different stated maturity dates may differ, among other things, in the date by which such Classes will be fully paid, priority of principal payments and interest rate.

14. Each Trust may have a limited right to substitute new Mortgage Certificates ("Substitute Mortgage Certificates") for Mortgage Certificates initially pledged as security for the Bonds, provided that such substitution does not result in a reduction of the ratings assigned to the Bonds by the one or more nationally recognized rating agencies.

15. In the event that principal payments on the Bonds of a Series are made other than on a monthly basis, the Bonds of such Series may be subject to special redemption as specified in the related Indenture. In addition, all or a portion of the bonds of a Series may be subject to redemption by the Trust issuing such Series, at the option of the Owers of such Trust under the limited circumstances provided in the related Indenture and disclosed in the related prospectus. Any such redemption would be at a price equal to the percentage of the outstanding principal amount of Bonds so redeemed stated in the related prospectus, plus accrued interest. The Applicant submits that no such redemption provision would make any of the Bonds or any of the Trust Certificates a "redeemable security" for purposes of the 1940 Act.

**Conditions to Order**

Applicant agrees that if the requested order is granted it will be expressly conditioned on the following:

*A. Conditions Relating to the Bonds*

1. Each Series of Bonds will be registered under the Securities Act of 1933 (the "1933 Act"), unless offered in a transaction exempt from registration either pursuant to section 4(2) of the 1933 Act or because such Series of Bonds is offered and sold outside the United States to Non-U.S. persons in reliance upon an opinion of U.S. counsel that registration is not required. No single offering of the Bonds sold within and outside the United States will be made without registration of all such Bonds under the 1933 Act, without obtaining a no-action letter permitting such offering or otherwise complying with applicable standards then governing such offerings. In all cases, Applicant will adopt agreements and procedures reasonably designed to prevent such debt securities from being offered or sold in the United States or to U.S. persons (except as U.S. counsel may then advise is permissible). Disclosure provided to purchasers located outside the United States will be substantially the same as that provided to U.S. investors in the United States offerings.

2. The Bonds will be "morgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. The Collateral directly securing the Bonds will be limited to mortgage pass-through certificates, including Stripped Mortgage-Backed Securities, guaranteed by GNMA or issued and guaranteed by FNMA or FHLMC and SPLITS.

3. If new Mortgage Certificates are substituted, the Substitute Mortgage Certificates must: (i) Be of equal or better quality than those replaced; (ii) have similar payment terms and cash flow as those replaced; (iii) be insured or guaranteed to the same extent as

[1] SPLITS are similar to Stripped Mortgate-Backed Securities issued by GNMA, FHLMC and FNMA in that SPLITS are issued in series of two or more classes, with each class representing a specified undivided fractional interest in principal distributions and/or interest distributions on the underlying pool of assets, and the fractional interest of each class are not identical but in the aggregate represent 100% of the principal and interest distributions on the particular pool. In addition, each series of SPLITS (a) will be rated in one of the two highest rating categories by at least one nationally recognized statistical rating agency, (b) will represent an underlying pool of assets consisting entirely of "fully-modified, pass-through" mortgage-backed certificates fully guaranteed by GNMA, Mortgage Participation Certificates issued by FHLMC or Guaranteed Mortgage Pass-Through Certificates issued by FNMA and (c) will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. Use of SPLITS as collateral for Bonds will not reduce the security afforded to Bondholders nor expose them to a level of risk significantly different from that present in a Series of Bonds directly secured by the certificates guaranteed by FNMA, GNMA or FHLMC in which the SPLITS represent an interest.

those replaced; and (iv) meet the conditions set forth in paragraphs (2) and (4). In addition, new Mortgage Certificates may not be substituted for more than 40% of the aggregate face amont of the Mortgage Certificates initially pledged. In no event may any new Mortgage Certificates be substituted for any Substitute Mortgage Certificates.

4. The Collateral will be held by the Bond Trustee or on behalf of the Bond Trustee by an independent custodian. Neither the custodian nor the Bond Trustee will be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicant. The Bond Trustee for each series will be provided with a first priority perfected security or lien interest in and to all Collateral securing such series.

5. Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating agency that is not affiliated with the Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

6. No. less often than annually, an independent public accountant will audit the books and records of each Trust. In addition, as long as any Bonds of a Series are outstanding, on the basis of a review of the Collateral, the independent accountant will report at least annually on whether the anticipated payments of principal and interest on the Collateral for each such Series continue to be adequate to pay the principal of and interest on the related Bonds in accordance with their terms. All accountant's reports with respect to payments on the Bonds will be provided to the Bond Trustee.

*B. Conditions Relating to Fees and Expenses*

1. For any Series of Bonds, including those Series of Bonds that the Trust elects to treat as a REMIC, the Trust will provide for the timely payment of all anticipated fees and expenses to be incurred in connection with the administration of the Bonds and the Collateral for such Series in a manner satisfactory to the agency or agencies that rate the Bonds. Either the Owners of the Trust Certificates of any such Trust will be personally liable pursuant to the Trust Agreement for such fees and expenses, or payment of such fees and expenses will be provided for by one or more of the methods or any combination thereof described in the application.

*C. Conditions Relating to Variable Rate Bonds*

1. Each Class of variable rate Bonds will have set maximum interest rates (interest rate caps) which may vary from period to period as specified in the related prospectus.

2. The Collateral pledged to secure the Bonds will be sufficient to provide for the full and timely payment of the Bonds then outstanding, assuming the maximum applicable interest rates for each specified period on variable rate Bonds.[2] Such Collateral will not be released from the lien of the Indenture prior to the payment of the Bonds (except pursuant to the limited right of substitution described above). Specifically, reduction of interest payments due on a Series of Bonds that contains a Class or Classes of variable rate Bonds will not result in the release of any of the Collateral (except as aforesaid) from the lien of the Indenture prior to the payment of the Bonds.

*D. Conditions Relating to Eligible Purchasers*

1. The Owners of the Trust Certificates will agree to be bound by the terms of the applicable Trust Agreement.

2. Trust Certificates will be sold only to Eligible Purchasers.

3. Each Sale of Trust Certificates to an Eligible Purchaser will qualify as a transaction not involving a public offering within the meaning of section 4(2) of the 1933 Act.

4. The Applicant will sell the Trust Certificates of each Trust to no more than 100 Eligible Purchasers, of which no more than 15 will be non-institutional accredited investors.

5. The Trust Agreement relating to each Trust will prohibit the transfer of any Trust Certificates of such Trust if there would be more than 15 non-institutional accredited investors as Owners of such Trust and if there would be more than 100 Owners of such Trust in total at any time.

6. Each Purchaser of a Trust Certificate will represent that it is purchasing the Trust Certificate for investment purposes only and that it will hold such Trust Certificate in its own name and not as a nominee for undisclosed investors.

7. No owner of a Trust Certificate will be affiliated with the Bond Trustee; no holders of a controlling (as that term is defined in Rule 405 under the 1933 Act) equity interest in the Trust will be affiliated with either the custodian of the Bond Collateral or the rating agency rating the Bonds; and the Owner Trustee will not purchase any Trust Certificate, but will function as a legal stakeholder for the assets of the Trust.

8. The above conditions apply to both the initial offering and sale of a Trust Certificate by each Trust and the resale of a Trust Certificate by an Eligible Purchaser to a new Eligible Purchaser.

*E. Conditions Relating to Transfer of Control of Applicant*

In the event the Applicant sells its equity interest in the future, other than the sale contemplated as described above, and such sale results in the transfer of control (as that term is defined in Rule 405 under the 1933 Act) of the Applicant, the relief afforded the Applicant will not apply to subsequent bond offerings by the Applicant or any issuer established by the Applicant unless the Applicant has applied for an amended order identifying the proposed transferee and such order as amended, has been granted. (Such application to amend will be limited in scope to the description of the proposed transfer.)

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 88-3310 Filed 2-16-88; 8:45 am]

BILLING CODE 8010-01-M

[2] In the case of a Series of Bonds that contains a class or classes of variable rate Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to the variable rate Bonds. Procedures that have been identified to date for achieving this result include the use of (i) interest rate caps for the variable rate Bonds; (ii) "inverse" variable rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" variable rate Bonds); (iii) variable rate collateral to secure the Bonds; (iv) interest rate swap agreements (under which the issuer of the Bonds would make periodic payments to a counterparty at a fixed rated of interest based on a stated principal amount, such as the principal amount of Bonds in the variable rate Class, in exchange for receiving corresponding periodic payments from the counterparty at a variable rate of interest based on the same principal amount); and (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the variable rate Class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the Commission notice by letter of any such additional mechanisms before they are utilized in order to give the Commission an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and will be adequate to meet the standards required to maintain the rating on the Bonds, and no Bonds will be issued for which this is not the case.

[Rel. No. IC-16262; 812-6815]

## Oxford Acceptance Corporation IV; Application

February 9, 1988.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for exemption under the investment company act of 1940 (the "1940 Act").

*Applicant:* Oxford Acceptance Corporation IV.

*Relevant 1940 Act Section:* Exemption requested under section 6(c) from all provisions of the 1940 Act.

*Summary of Application:* Applicant seeks a conditional order exempting it from all provisions of the 1940 Act in connection with the issuance of collateralized mortgage obligations by certain limited partnerships that it may form and the sale of beneficial ownership interests in such limited partnerships.

*Filing Date:* The application was filed on August 7, 1987, and amended on January 21 and 29, 1988.

*Hearing or Notification of Hearing:* If no hearing is ordered, the Application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on March 4, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. The Applicant should be served with the request, either personally or by mail, and also send it to the Secretary of the SEC along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date for a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 4550 Montgomery Avenue, Suite 300, Bethesda, Maryland 20814.

**FOR FURTHER INFORMATION CONTACT:** Brian P. Kindelan, Staff Attorney, (202) 272-3045, or Curtis R. Hilliard, Special Counsel, (202) 272-3030 (Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

### Applicant's Representations

1. The Applicant is a limited-purpose corporation incorporated under the laws of the State of Delaware. One stockholder, Leo E. Zickler, owns all of the Applicant's issued and outstanding shares of capital stock. Mr. Zickler intends to sell all of the issued and outstanding shares of capital stock of the Applicant to Montgomery Capital Corporation, a company incorporated in the State of Delaware and whose primary business is structured mortgage finance. Upon such sale, Applicant would be retitled Montgomery Acceptance Corporation IV, and an amendment to the application will be filed setting forth the details of the sale, including the persons controlling Montgomery Capital Corporation.

2. Applicant was formed to act as the general partner (the "General Partner") of one or more limited partnerships (each a "Limited Partnership") each pursuant to a limited partnership agreement (a "Limited Partnership Agreement"). Each Limited Partnership Agreement will provide that each Limited Partnership will be restricted in its activities to (i) issuing and selling bonds in series (the "Bonds"), each pursuant to an indenture; and (ii) acquiring, owning, holding and pledging Mortgage Certificates (as hereinafter defined) in connection therewith; (iii) acquiring the rights to amounts remitted or to be remitted to entities issuing and selling Bonds secured by mortgage-related collateral; and (iv) engaging in such other activities that are necessary, suitable or convenient to accomplish the foregoing or are incidental thereto or connected therewith.

3. The activities contemplated will be structured under a limited partnership format because that format provides tax advantages not realized under a corporate structure. Each Limited Partnership will issue one or more series (each a "Series") of Bonds. Each series of Bonds issued by a Limited Partnership will constitute obligations solely of such Limited Partnership. Each Limited Partnership will be created pursuant to a Certificate of Limited Partnership filed with the Secretary of the State of Delaware and a Limited Partnership Agreement between the Applicant, as General Partner, and one or more limited partners. The laws of the State of Delaware provide for the limited liability of the limited partners.

4. The sale of limited partnership interests of each Limited Partnership will be made only to limited partners that are (i) institutions or (ii) non-institutions that are "accredited investors" as defined in Rule 501(a) of the 1933 Act (each an "Eligible Partner").

5. Institutional investors will have such knowledge and experience in financial and business matters as to be capable to evaluate the risks of purchasing a limited partnership interest in a Limited Partnership and to understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and residual interests therein.

6. Non-institutional accredited investors that purchase limited partnership interest in a Limited Partnership will be limited to not more than 15, will purchase at least $200,000 of such limited partnership interests and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Further, non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing a limited partnership interest in a Limited Partnership and will have direct, personal and significant experience in investments in mortgage-related securities and because of such knowledge and experience, understand the volatility of interest rate fluctuations as they affect the value of mortgage-related securities and residual interests therein. Eligible Partners will be limited to mortgage lenders, thrift institutions, commercial and investment bands, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds (each such mutual fund being required to satisfy itself that the purchase of a limited partnership interest will comply with section 12(d)(1) of the Act), real estate investment trusts, master limited partnerships and/or other institutional or non-institutional investors as described above which customarily engage in the purchase of mortgages and mortgage-related securities.

7. Each limited partner will not be able to alter the Mortgage Certificates initially deposited by Applicant, except to the extent permitted by the limited right to substitute Mortgage Certificates as described herein and in no event will such right to substitute Mortgage Certificates result in a diminution of the value of the Mortgage Certificates.

8. Each Series of Bonds will be sold to institutional or retail investors in firm commitment underwritten public offerings or private placements. Each Series of Bonds will be sold pursuant to an offering circular, a prospectus or a private placement memorandum (referred to hereinafter, collectively, as a "prospectus") containing all material disclosures required by the terms of the 1940 Act, to the extent applicable. The Bonds will be issued pursuant to an

indenture (the "Indenture"), between the General Partner on behalf of the Limited Partnership and an independent trustee (the "Bond Trustee"). The Indenture for each Series of Bonds will be subject to the provisions of the Trust Indenture Act of 1939, unless an exemption from some or all of the provisions of such Act is available.

9. The Applicant will cause each Limited Partnership to issue Bonds that will be secured by mortgage certificates consisting of any combination of "fully modified pass-through" mortgage-backed certificates fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA"); Mortgage Participation Certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC"); Guaranteed Mortgage Pass-Through Certificates issued by the Federal National Mortgage Association ("FNMA"); Stripped Mortgage-Backed Securities issued by GNMA, FHLMC or FNMA; and stripped mortgage-backed securities issued by the Applicant ("SPLITS") [1] (collectively, the "Mortgage Certificates"). The Mortgage Certificates that initially secure the Bonds will have an aggregate "Collateral Value" (as defined in the related Indenture) at least equal to the principal amount of the Bonds. In addition to the Mortgage Certificates, the Bonds may be secured by: (i) Distributions on the Mortgage Certificates; (ii) cash, demand notes, a letter of credit or Eligible Investments (as defined in the Application) or any combination thereof, if required with respect to any Series to be deposited in the accounts and funds described below; (iii) the reinvestment income on such distributions and deposits; (iv) payments under any minimum principal payment agreement (collectively with the Mortgage Certificates, "Collateral"). The Collateral relating to a series will include a separate collection account for each Series and may include a debt service reserve fund or other reserve funds and payments made under any guaranteed investment contract and minimum principal payment agreement, in each case as specified in the prospectus for a particular Series.

10. The Limited Partnership may elect to treat the Collateral securing a Series of Bonds as a "real estate mortgage investment conduit" (a "REMIC") pursuant to the Internal Revenue Code of 1986.

11. The Limited Partnership will pledge to the Bond Trustee as security for a Series of Bonds its entire right, title and interest in the Mortgage Certificates purchased by the Limited Partnership. The Mortgage Certificates will be held by the Bond Trustee or on behalf of the Bond Trustee by an independent custodian. Such independent custodian will not be an affiliate of the Applicant or the Owner Trustee.

12. Bonds of a Series may bear interest at fixed rates or at rates which vary in relation to an index specified in the related prospectus. Bonds bearing interest at a variable rate will be subject to maximum interest rates ("interest rate caps") or to minimum interest rates in the case of inverse variable rate Bonds. The maximum and minimum interest rates may vary from period to period, and always will be specified in the related prospectus. The Bonds will be structured so that the cash flow generated by the related Mortgage Certificates securing the Bonds, together with the other Collateral, plus the reinvestment earnings thereon at the assumed reinvestment rate specified in the related prospectus (which rate will be no greater than the maximum rate permitted by the rating agency or agencies rating such Series) will be sufficient to provide for the full and timely payment of the Bonds of such Series (even if the interest rates on variable rate Bonds were the maximum applicable interest rates for each specified period).

13. The Applicant anticipates that one or more Series of Bonds may consist of one or more classes of Bonds (each a "Class"). Some Classes may have stated maturity dates earlier or later than other Classes of such Series. The Classes with different stated maturity dates may differ, among other things, in the date by which such Classes will be fully paid, priority or principal payments and interest rate.

14. Each Limited Partnership may have a limited right to substitute new Mortgage Certificates ("Substitute Mortgage Certificates") for Mortgage Certificates initially pledged as security for the Bonds, provided that such substitution does not result in a reduction of the ratings assigned to the Bonds by one or more nationally recognized rating agencies.

15. In the event that principal payments on the Bonds of a Series are made other than on a monthly basis, the Bonds of such Series may be subject to special redemption as specified in the related Indenture. In addition, all or a portion of the Bonds of a Series may be subject to redemption by the Limited Partnership issuing such Series, at the option of the limited partners of such Limited Partnership under the limited circumstances provided in the related Indenture and disclosed in the related prospectus. Any such redemption would be at a price equal to the percentage of the outstanding principal amount of Bonds so redeemed stated in the related prospectus, plus accrued interest. The Applicant submits that no such redemption provision would make any of the Bonds or any of the limited partnership interests a "redeemable security" for purposes of the 1940 Act.

**Conditions to Order**

Applicant agrees that if the requested order is granted it will be expressly conditioned on the following:

*A. Conditions Relating to the Bonds*

1. Each Series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration, either pursuant to section 4(2) of the 1933 Act or because such Series of Bonds is offered and sold outside the United States to non-U.S. persons in reliance upon an opinion of U.S. counsel that registration is not required. No single offering of the Bonds sold within and outside the United States will be made without registration of all such Bonds under the 1933 Act, without obtaining a no-action letter permitting such offering or otherwise complying with applicable standards then governing such offerings. In all cases, Applicant will adopt agreements and procedures reasonably designed to prevent such debt securities from being offered or sold in the United States or to U.S. persons (except as U.S. counsel may then advise is permissible). Disclosure provided to purchasers located outside the United States will be substantially the same as that provided to U.S. investors in the United States offerings.

[1] SPLITS are similar to Stripped Mortgage-Backed Securities issued by GNMA, FHLMC and FNMA in that SPLITS are issued in series of two or more classes, with each class representing a specified undivided fractional interest in principal distributions and/or interest distributions on the underlying pool of assets, and the fractional interests of each class are not identical but in the aggregate represent 100% of the principal and interest distributions on the particular pool. In addition, each series of SPLITS (a) will be rated in one of the two highest rating categories by at least one nationally recognized statistical rating agency, (b) will represent an underlying pool of assets consisting entirely of "fully-modified, pass-through" mortgage-backed certificates fully guaranteed by GNMA, Mortgage Participation Certificates issued by FHLMC or Guaranteed Mortgage Pass-Through Certificates issued by FNMA and (c) will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended. Use of SPLITS as collateral for Bonds will not reduce the security afforded to Bondholders nor expose them to a level of risk significantly different from that present in a Series of Bonds directly secured by the certificates guaranteed by FNMA, GNMA or FHLMC in which the SPLITS represent an interest.

2. The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934, as amended, and the Collateral directly securing the Bonds will be limited to mortgage pass-through certificates, including Stripped Mortgage-Backed Securities, guaranteed by GNMA or issued and guaranteed by FNMA or FHLMC and SPLITS.

3. If new Mortgage Certificates are substituted, the Substitute Mortgage Certificates must: (i) Be of equal or better quality than those replaced; (ii) have similar payment terms and cash flow as those replaced; (iii) be insured or guaranteed to the same extent as those replaced; and (iv) meet the conditions set forth in paragraphs (2) and (4). In addition, new Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged. In no event may any new Mortgage Certificates be substituted for any Substitute Mortgage Certificates.

4. The Collateral will be held by the Bond Trustee or on behalf of the Bond Trustee by an independent custodian. Neither the custodian nor the Bond Trustee will be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicant. The Bond Trustee will be provided with a first priority perfected security or lien interest in and to all Collateral.

5. Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating agency that is not affiliated with the Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

6. No less often than annually, an independent public accountant will audit the books and records of each Limited Partnership. In addition, as long as any Bonds of a Series are outstanding, on the basis of a review of the Collateral, the independent accountant will report at least annually on whether the anticipated payments of principal and interest on the Collateral for each such Series continue to be adequate to pay the principal of and interest on the related Bonds in accordance with their terms. All accountant's reports with respect to payments on the Bonds will be provided to the Bond Trustee.

*B. Conditions Relating to Fees and Expenses*

1. For any Series of Bonds that the Limited Partnership elects to treat the Collateral for such Series as a REMIC, the Limited Partnership will provide for the timely payment of all anticipated fees and expenses to be incurred in connection with the administration of the Bonds and the Collateral for such Series in a manner satisfactory to the agency or agencies that rate the Bonds. Either the limited partners of the Limited Partnership will be liable pursuant to the Limited Partnership Agreement for such fees and expenses, or payment of such fees and expenses will be provided for by one more of the methods or any combination thereof described in the application. In no event will the limited partners of a Limited Partnership be liable for expenses if that liability would jeopardize their status as limited partners for federal tax purposes or under state law.

*C. Conditions Relating to Variable Rate Bonds*

1. Each Class of variable rate Bonds will have set maximum interest rates (interest rate caps) which may vary from period to period as specified in the related prospectus.

2. The Collateral pledged to secure the Bonds will be sufficient to provide for the full and timely payment of the Bonds then outstanding, assuming the maximum applicable interest rates for each specified period on variable rate Bonds.[2] Such Collateral will not be released from the lien of the Indenture prior to the payment of the Bonds (except pursuant to the limited right of substitution described above). Specifically, reduction of interest payments due on a Series of Bonds that contains a Class or Classes of variable rate Bonds will not result in the release of any of the Collateral (except as aforesaid) from the lien of the Indenture prior to the payment of the Bonds.

*D. Conditions Relating to Eligible Partners*

1. The limited partners of each Limited Partnership will agree to be bound by the terms of the applicable Limited Partnership Agreement.

2. The limited partnership interests will be sold only to Eligible Partners.

3. Each Sale of a limited partnership interest to an Eligible Partner will qualify as a transaction not involving a public offering within the meaning of section 4(2) of the 1933 Act.

4. The Applicant will sell the limited partnership interests of each limited partnership to no more than 100 Eligible Partners, of which no more than 15 will be non-institutional accredited investors.

5. The Limited Partnership Agreement relating to each limited Partnership will prohibit the transfer of any limited partnership interest of such Limited Partnership if there would be more than 15 non-institutional accredited investors as limited partners and if there would be more than 100 limited partners of such Limited Partnership in total at any time.

6. Each purchaser of a limited partnership interest will represent that it is purchasing the limited partnership interest for investment purposes only and that it will hold such limited partnership interest in its own name and not as a nominee for undisclosed investors.

7. No owner of a limited partnership interest will be affiliated with the Bond Trustee; no holders of a controlling (as that term is defined in Rule 405 under the 1933 Act) equity interest in the Limited partnership will be affiliated with either the custodian of the Bond Collateral or the rating agency rating the Bonds.

*E. Condition Relating to Transfer of Control of Applicant*

In the event the Applicant sells its equity interest in the future, other than the sale contemplated as described above, and such sale results in the transfer of control (as that term is defined in Rule 405 under the 1933 Act) of the Applicant, the relief afforded the Applicant will not apply to subsequent

[2] In the case of a Series of Bonds that contains a class or classes of variable rate Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to the variable rate Bonds. Procedures that have been identified to date for achieving this result include the use of (i) interest rate caps for the variable rate Bonds; (ii) "inverse" variable rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" variable rate Bonds); (iii) variable rate collateral to secure the Bonds; (iv) interest rate swap agreements (under which the issuer of the Bonds would make periodic payments to a counterparty at a fixed rate of interest based on a stated principal amount, such as the principal amount of Bonds in the variable rate Class, in exchange for receiving corresponding periodic payments from the counterparty at a variable rate of interest based on the same principal amount); and (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the variable rate Class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the Commission notice by letter of any such additional mechanisms before they are utilized in order to give the Commission an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and will be adequate to meet the standards required to maintain the rating on the Bonds, and no Bonds will be issued for which this is not the case.

bond offerings by the Applicant or any issuer established by the Applicant unless the Applicant has applied for an amended order identifying the proposed transferee and such order, as amended, has been granted. (Such application to amend will be limited in scope to the description of the proposed transfer.)

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 88-3311 Filed 2-16-88; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster Loan #2311]**

### New Jersey; Declaration of Disaster Loan Area

The City of Passaic, New Jersey constitutes a disaster loan area as a result of damages caused by a fire which occurred at 260 Gregory Avenue on January 31, 1988. Applications for loans for physcial damage as a direct result of this fire may be filed until the close of business on April 8, 1988 and for economic injury as a direct result of this fire until the close of business on November 8, 1988 at the address listed below:

Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, NJ 07410; or other locally announced locations.

The interest rates are:

| | Percent |
|---|---|
| Homeowners with Credit Available Elsewhere | 8.000 |
| Homeowners without Credit Available Elsewhere | 4.000 |
| Businesses with Credit Available Elsewhere | 8.000 |
| Businesses without Credit Available Elsewhere | 4.000 |
| Businesses (EIDL) without Credit Available Elsewhere | 4.000 |
| Other (Non-Profit Organizations Including Charitable and Religious Organizations) | 9.000 |

The number assigned to this disaster is 231105 for physical damage and for economic injury the number is 660300.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 8, 1988.

**James Abdnor,**

*Administrator.*

[FR Doc. 88-3251 Filed 2-16-88; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement; Box Elder and Cache Counties, UT

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Box Elder and Cache Counties, Utah.

**FOR FURTHER INFORMATION CONTACT:** Tom Allen, Highway Engineer, Federal Highway Administration, P.O. Box 11563, Salt Lake City, Utah 84147, Telephone: (801) 524-5143; or Lynn Zollinger, Preconstruction Engineer, Utah Department of Transportation, District One, P.O. Box 2747, Ogden, Utah 84404, Telephone: (801) 399-5921.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Utah Department of Transportation (UDOT), will prepare an environmental impact statement (EIS) on a proposal to improve United States Routes 89/91 (US-89/91) from Brigham City in Box Elder County to Wellsville in Cache County, Utah. The proposed improvement would accommodate increased traffic and provide safety modifications along 12.36 miles of the existing highway facility through mountainous terrain known as Sardine Canyon.

Improvements to the corridor are considered necessary to provide increased capacity and improved safety for the existing and projected traffic demand. Alternatives under consideration include: (1) Taking no action; (2) using alternate travel routes; (3) widening the existing highway; and (4) relocating portions of the highway to new alignments. Incorporated into and analyzed with the various build alternatives will be design variations of grade and alignment.

A scoping document describing the proposed action and soliciting comments, concerns, and issues will be sent to all appropriate Federal, State, and local agencies; private organizations; and individuals expected to be interested in the proposed project when it commences. Public scoping meetings will be scheduled and held in the cities of Brigham City and Logan early in 1988. Notice of additional public meetings to present information and solicit comments relative to alternatives for consideration and possible impacts will be given as the proposed project proceeds. In addition, a public hearing will be held. Public notice will also be given of the time and place of the public hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. A public involvement plan has been developed for this proposed project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or UDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 5, 1988.

**Daniel Dake,**

*Division Administrator, Salt Lake City, Utah.*

[FR Doc. 88-3247 Filed 2-16-88; 8:45 am]

BILLING CODE 4910-22-M

### Environmental Impact Statement; Butler and Warren Counties, OH

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Butler and Warren Counties, Ohio.

**FOR FURTHER INFORMATION CONTACT:** Mr. Fred J. Hempel, Division Administrator, or Mr. Robert W. Boyd, District Engineer, Federal Highway Administration, 200 North High Street, Columbus, Ohio 43215. Telephone: (614) 469-6896 or 469-5150.

**SUPPLEMENTARY INFORMATION:** The Federal Highway Administration (FHWA), in cooperation with the Ohio Department of Transportation (ODOT), will prepare an environmental impact statement on a proposal for the improvement and extension of State Route 129 in Butler and Warren Counties, Ohio. The proposed project would involve the upgrading or relocation of SR 129 between the existing intersection with SR 4 on the east edge of the City of Hamilton and Interstate Route 71 at Kings Mills Road, east of the City of Mason, a distance of approximately 16 miles.

Highway improvements within the corridor of the proposed project have been under study since the early

seventies. A number of alternative lines were studied and in 1972 a line was journalized by the Director of the Ohio Department of Highways (now ODOT). The line was subsequently encroached upon by development, necessitating a revision in the alignment. A new study, departing from the 1972 proposed alignment, was completed in 1983.

Three alternatives are presently under consideration.

The relocation alternative would consist of approximately 16 miles of four-lane, divided, controlled-access highway on new alignment. Access to the facility would be provided by 18 at-grade intersections and three interchanges, at the SR 4 Bypass, SR 747, and IR 75. Termini would be SR 4 on the west and IR 71 and Kings Mills Road on the east.

The upgrade alternative would consist of (1) widening existing SR 129 (Princeton Road) between SR 4 and SR 747, (2) continuing the widening of Princeton Road between SR 747 and IR 75 (where it is not presently a state route), (3) providing an interchange to utilize IR 75 between the SR 129 extension on Princeton Road and the existing interchange at Tylersville Road, and (4) utilizing a widened and also extended Tylersville Road between IR 75 and IR 71.

The no action alternative would involve no major improvements to the roads within the existing corridor between SR 4 and IR 71.

A preferred alternative will be identified in the draft environmental impact statement; however, the final selection of an alternative will be made after the draft EIS has been circulated and a public hearing held.

The proposed highway facility would provide a safe, efficient, high-capacity transportation link for east-west travel through the involved portions of Butler and Warren Counties, while connecting IR 75 and IR 71 north of the Cincinnati Outerbelt (IR 275). The proposed artery would provide for anticipated growth in population, households, and traffic volumes, relieve congestion on existing routes, and allow for the orderly implementation of current planning for the area.

A program of public involvement and coordination with Federal, State, and local agencies has been conducted. It is envisioned that involvement with the public and other agencies will continue throughout the development of the project and, therefore, it is not anticipated that a formal scoping meeting will be held.

To insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the EIS should be addressed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 8, 1988.

**Fred J. Hempel,**

*Division Administrator, Columbus, Ohio.*

[FR Doc. 88-3342 Filed 2-16-88; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

**[Supplement to Dept. Circ.; Public Debt Series No. 3-88]**

### Treasury Notes of Series A-1998

Washington, February 4, 1988.

The Secretary announced on February 3, 1988, that the interest rate on the notes designated Series A-1998, described in Department Circular—Public Debt Series—No. 3-88 dated January 28, 1988, will be 8⅛ percent. Interest on the notes will be payable at the rate of 8⅛ percent per annum.

**Gerald Murphy,**

*Fiscal Assistant Secretary.*

[FR Doc. 88-3249 Filed 2-16-88; 8:45 am]

BILLING CODE 4810-40-M

**[Supplement to Department Circular; Public Debt Series No. 2-88]**

### Treasury Notes: Series R-1991

Washington, February 3, 1988.

The Secretary announced on February 2, 1988, that the interest rate on the notes designated Series R-1991, described in Department Circular—Public Debt Series—No. 2-88 dated January 28, 1988, will be 7⅞ percent. Interest on the notes will be payable at the rate of 7⅞ percent per annum.

**Gerald Murphy,**

*Fiscal Assistant Secretary.*

[FR Doc. 88-3248 Filed 2-16-88; 8:45 am]

BILLING CODE 4810-40-M

## VETERANS ADMINISTRATION

### Special Medical Advisory Group; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Special Medical Advisory Group will be held on March 10 and 11, 1988. The session on March 10 will be held at the Capital Hilton Hotel, 16th and K Streets NW., Washington, DC 20036, and the session on March 11 will be held in the Omar Bradley Conference Room (10th floor) at the Veterans Administraton Central Office, 810 Vermont Avenue NW., Washington, DC 20420. The purpose of the Special Medical Advisory Group is to advise the Administrator and Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery. The session on March 10 (held at the Capital Hilton Hotel) will convene at 6 p.m. and the session on March 11 will convene at 8 a.m. All sessions will be open to the public up to the seating capacity of the rooms. Because this capacity is limited, it will be necessary for those wishing to attend to contact Lorri Fertal, Office of the Chief Medical Director, Veterans Administration Central Office (phone 202/233-3985) prior to March 3, 1988.

Dated: February 8, 1988.

By direction of the Administrator.

**Rosa Maria Fontanez,**

*Committee Management Officer.*

[FR Doc. 88-3331 Filed 2-16-88; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register
Vol. 53, No. 31
Wednesday, February 17, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**TIME AND DATE:** 10:00 a.m., Friday, February 19, 1988.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: February 12, 1988.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 88-3399 Filed 2-12-88; 12:37 pm]

BILLING CODE 6210-01-M

**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**TIME AND DATE:** 11:00 a.m., Monday, February 22, 1988.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary action) involving individual Federal Reserve System employees.
2. Any items carried forward from a perviously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: February 12, 1988.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 88-3959 Filed 2-12-88; 3:28 pm]

BILLING CODE 6210-01-M

**SECURITIES AND EXCHANGE COMMISSION**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** (53 FR 3979 February 10, 1988).

**STATUS:** Closed meeting.

**PLACE:** 450 5th Street NW., Washington, DC.

**DATE PREVIOUSLY ANNOUNCED:** Friday, February 5, 1988.

**CHANGES IN THE MEETING:** Additional.

The following additional items were considered at a open meeting scheduled on Tuesday, February 9, 1988, at 2:30 p.m.

Status report of judicial proceeding.
Discussion of internal operating practices.
Status report of investigation.

Commissioner Peters, as duty officer, determined that Commission business required the above changes.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Alden Adkins at (202) 272-2014.

Jonathan G. Katz,

*Secretary.*

February 10, 1988.

[FR Doc. 88-3350 Filed 2-11-88; 4:33 pm]

BILLING CODE 8010-01-M

# Corrections

Federal Register
Vol. 53, No. 31
Wednesday, February 17, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1, 32, and 52

**[Federal Acquisition Circular 84-33]**

### Federal Acquisition Regulation; Ratification of Unauthorized Commitments and Prompt Payment

*Correction*

In rule document 88-2617 beginning on page 3688 in the issue of Monday, February 8, 1988, make the following correction:

On page 3688, in the third column, under **Contract Financing Payments**, in the fifth line, "through" should read "though".

BILLING CODE 1505-01-D

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Part 380

**[Docket No. RM87-15-000; Order No. 486]**

### Regulations Implementing National Environmental Policy Act of 1969

*Correction*

In rule document 87-28894 beginning on page 47897 in the issue of Thursday, December 17, 1987, make the following correction:

**§ 380.5 [Corrected]**

On page 47912, in the third column, in § 380.5, in the first line, paragraph designation "(1)" should read "(a)".

BILLING CODE 1505-01-D

## FEDERAL RESERVE SYSTEM

### County Bancorporation, Inc., et al.; Application To Engage de Novo in Permissible Nonbanking Activities

*Correction*

In notice document 88-2385 appearing on page 3456 in the issue of Friday, February 5, 1988, make the following correction:

In the second column, under paragraph C, in paragraph 1, the third line should read, "real estate appraising pursuant to § 225.25(b)(13); mortgage banking and providing".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR-090-06-4212-13; GP8-052; OR 42315]**

### Realty Action—Exchange; Oregon

*Correction*

In notice document 88-1744 beginning on page 2543 in the issue of Thursday, January 28, 1988, make the following correction:

On page 2543, in the second column, under **Willamette Meridian, Oregon**, the first line should read "T. 14 S., R. 1 E.".

BILLING CODE 1505-01-D

Federal Register

Wednesday
February 17, 1988

Part II

# Department of Education

National Institute on Disability and Rehabilitation Research; Final Funding Priorities for Fiscal Year 1988; Notice

## DEPARTMENT OF EDUCATION

### National Institute on Disability and Rehabilitation Research

**AGENCY:** Department of Education.

**ACTION:** Notice of Final Funding Priorities for Fiscal Year 1988.

**SUMMARY:** The Secretary of Education announces final funding priorities for research activities to be supported under the Research and Demonstration (R&D) and Knowledge Dissemination and Utilization (D&U) programs of the National Institute on Disability and Rehabilitation Research (NIDRR) in fiscal year 1988.

**EFFECTIVE DATE:** These priorities take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

**FOR FURTHER INFORMATION CONTACT:** Betty Jo Berland, National Institute on Disability and Rehabilitation Research (Telephone: (202) 732–1141). Deaf and hearing-impaired individuals may call (202) 732–1198 for TDD services.

**SUPPLEMENTARY INFORMATION:** Authority for the research programs of NIDRR is contained in section 204 of the Rehabilitation Act of 1973, as amended. Under these programs, awards are made to public and private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations. NIDRR can make awards for up to 60 months.

The purpose of the awards is to support research, demonstrations, and related activities that have a direct bearing on the development of methods, procedures, and devices to assist in providing vocational and other rehabilitation services to individuals with handicaps, especially those with the most severe handicaps.

NIDRR regulations authorize the Secretary to establish research priorities by reserving funds to support particular research activities (see 34 CFR 351.32). A notice of proposed priorities was published for public comment in the **Federal Register** on November 10, 1987 at 52 FR 43300. The notice requesting transmittal of applications was also published in that issue of the **Federal Register**, and the closing date for receipt of applications was published as of February 16, 1988. This notice does not solicit applications, nor will NIDRR accept applications after February 16, 1988. These final priorities were established on the basis of the NIDRR initial planning process and public comments received during the comment period. The publication of these proposed priorities does not bind the United States Department of Education to fund projects in any or all of these research areas, unless otherwise specified in statute. Funding of particular projects depends on both the nature of the final priorities and the quality of the applications received.

The following sixteen final funding priorities represent areas in which NIDRR expects to support research and related activities through grants or cooperative agreements in two programs, the Research and Demonstration Projects Program (R&D), and the Knowledge Dissemination and Utilization Projects Program (D&U).

### Analysis of Comments and Changes

NIDRR received eleven letters of comment from the public. A discussion of the requests for substantive changes and clarifications follows, with general comments first, and then comments on individual priorities.

*Comment:* One commenter questioned the absence of priorities relating to persons with chronic mental illness.

*Discussion:* NIDRR funds four Rehabilitation Research and Training Centers (RRTCs) and several discrete projects dealing with the rehabilitation of persons with mental illness. NIDRR also intends to undertake planning activities in 1988 to establish an agenda for future research in this area. Interested parties are also encouraged to seek support for research in this area through NIDRR's investigator-initiated programs—Field-Initiated Research, Innovation Grants, and Fellowships.

*Changes:* None.

*Comment:* Several commenters requested information about the process that NIDRR used to select these priorities and asked to be advised about the processes NIDRR would use in the future.

*Discussion:* NIDRR has used a variety of planning processes in the past, and is oriented toward increasing the scope and depth of public involvement in planning. Many of the current priorities relate to work not yet completed from NIDRR's original Long-Range Plan, submitted to Congress in 1981. However, there have been more recent planning activities in many of these areas. For example, NIDRR cosponsored a conference on arthritis rehabilitation with the National Institute on Arthritis and Musculoskeletal Disorders and the Arthritis Foundation, which led to the priority on arthritis rehabilitation. A similar planning meeting was held with a group of researchers and clinicians in cardiac rehabilitation and led to the development of that priority. The Department of Education has had an active Task Force on Traumatic Brain Injury over the last year, and from that group evolved the two priorities on brain injury and stroke. In response to congressional interest in the area of therapeutic recreation, the Director of NIDRR met with several leading professional associations and researchers in that field to develop the current priority. In response to new legislation concerning supported employment, NIDRR has met with representatives of the independent living movement and vocational rehabilitation administrators to develop the priority concerned with models for involving independent living centers as supported employment delivery agencies. The priority for public education in spinal cord injury is part of NIDRR's plan to undertake public education in several disability areas in which it is likely to be most effective; a public education project in traumatic brain injury was funded in 1987. The regional rehabilitation exchange priority furthers NIDRR's long-range dissemination plan to feature diffusion networks structured on a regional basis. NIDRR also held a constituent planning meeting in November 1986, involving representatives from research, service delivery, and consumer communities. Participants at this meeting recommended several cross-cutting priorities to NIDRR, including more emphasis on families in rehabilitation and more emphasis on dissemination of research results.

NIDRR is scheduling a number of planning activities for the next fiscal year, including state-of-the-art studies; work with the Interagency Committee on Handicapped Research and its subcommittees; and a planning conference on rehabilitation research priorities in the area of mental health. It is the goal of NIDRR to involve a broad constituency of researchers, service providers, consumers with disabilities, other Federal agencies, and policymakers at all levels in deliberations about future research directions. NIDRR intends to use a variety of approaches and processes to obtain the input of these constituent groups and expects to continually improve the process.

*Changes:* None.

*Therapeutic Recreation*

*Comment:* One commenter suggested that the project on therapeutic recreation examine two additional issues: (1) how therapeutic recreation services contribute to the rehabilitation process; and (2) the benefits and

outcomes of therapeutic recreation services.

*Discussion:* The priority calls for an evaluation of the efficacy of therapeutic recreation as a rehabilitation modality, at one point specifically asking that applicants investigate the correlation between therapeutic recreation and rehabilitation outcomes. The Secretary believes that the priority implies that potential applicants should address these issues in some form and does not believe it is necessary to modify the priority.

*Changes:* None.

*Comment:* One commenter recommended that the state-of-the-art study required in the priority should also include the development of a long-term research agenda.

*Discussion:* NIDRR believes that the identification of future research directions is one of the major components of a state-of-the-art study or conference. For this reason, the Secretary does not believe it is necessary to modify the priority.

*Changes:* None.

*Traumatic Brain Injury in Children*

*Comment:* One commenter stated that defining children as persons under sixteen years of age for the purposes of this priority is too restrictive, and that older adolescents should be included.

*Discussion:* The Secretary agrees that any age cut-off, of necessity, is somewhat arbitrary. However, NIDRR funds considerable research and related activities in the area of traumatic brain injury. Most of the clients seen in these programs are adolescents and young adults. Therefore, NIDRR wants to focus this project on younger persons in order to develop new knowledge and service models relevant to a younger population.

*Changes:* None.

*Cardiovascular Rehabilitation*

*Comment:* One commenter suggested that several modifications be made to the priority on cardiovascular rehabilitation. The first of these was that the priority consider rehabilitation of individuals with other subsets of coronary disease beyond myocardial infarction, such as angioplasty, coronary bypass, or angiographic documented coronary heart disease. This commenter also urged that the priority specifically address individuals with coronary disease who also have neurological and/or musculoskeletal disability, and include elderly (aged 65 or older) coronary patients. Finally, this commenter recommended that the priority include research on detection of silent ischemia and consider its role in secondary prevention.

*Discussion:* The Secretary agrees that the research priority should be expanded to include individuals with additional forms of cardiovascular disability. Although researchers are not precluded from studying individuals who also have neurological or musculoskeletal impairments, the intent of the priority is to increase understanding of rehabilitation of cardiovascular impairments, and this should not be confounded by the presence of other disabilities. Elderly persons with disabilities are included in the general population of concern to NIDRR, but at this time NIDRR will not specify that all researchers must include definitive studies of an elderly population in this project. Studies of silent ischemia and secondary prevention are also important; however it is the judgment of NIDRR that these issues could not also be addressed within the time frame and resource level for this project. NIDRR will consider these issues for future priorities, and also suggests that interested researchers consider using the investigator-initiated program mechanisms to address some of these problems.

*Changes:* The priority has been changed to include individuals with other forms of cardiovascular impairments, such as angioplasty, bypass surgery, and angiographic document coronary disease.

*Functional Electrical Stimulation (FES)*

*Comment:* One commenter suggested that additional research projects on FES are not needed, but that a clearinghouse to catalog, correlate, and evaluate other FES studies is needed.

*Discussion:* NIDRR believes that there remains a need to develop additional clinical knowledge about the applications of selected FES regimens to specific impairments. However, the suggestion for a compilation and review of developments in the field is an interesting one and NIDRR will give it further consideration as a future priority. At the same time, the Secretary encourages those interested in a project of this type to consider submitting an application to one of NIDRR's investigator-initiated programs.

*Changes:* None.

**Priorities for Research and Demonstration Projects (12)**

*Improving Job Retention for Disabled Small Business Employees*

Early rehabilitation services at the worksite assist disabled individuals to continue as productive workers with a minimum of lost work time. More than half a million workers each year leave work for five or more months because of serious physical disabilities. However, only a very small percentage of these workers receive rehabilitation services to promote return to work. The average worker who becomes disabled is over fifty years of age, works for a small employer, and will receive a monetary benefit as a result of a disability.

Despite numerous obstacles, many of America's larger corporations have successfully implemented employee-based disability management programs. Observers have noted that early interventions at the worksite appear to have beneficial results for both workers and employers. These benefits include prevention of job loss; continued optimal worker performance; increased independence rather than dependence; efficient use of health resources; cost-control of expensive disability-related services; and improved coordination of community rehabilitation services. These large corporations can provide excellent employer-sponsored human resources programs, which have resulted in these advances in disability management.

However, the majority of the work force is employed in small businesses that have few resources to use for disability management at the workplace. Research and demonstration activities are needed to develop and test innovative models to address the problems of disability in a small business setting.

An absolute priority is announced for a research project to:

- Identify existing, and develop new, management approaches for job retention and return-to-work of employees who become disabled while employed in a small business;
- Investigate the feasibility of organizing consortia for the purchase of rehabilitation services; sharing the costs of rehabilitation for high risk employees; disability-management "health maintenance organizations"; or similar mechanisms to enable appropriate combinations of small businesses, business associations, labor unions, public employers, entrepreneurs, and self-employed individuals to join together to obtain job retention/return to work assistance for workers who become disabled while employed in small businesses;
- Explore possible roles for independent living centers, university extension programs, adult and continuing education programs, and related educational and information centers in advising employers and

employees in small businesses on work accommodations, counseling on disability programs and benefits, and related disability management components;

• Identify the financial impact on small businesses of lost productivity and worker separation due to sudden onset of disability or traumatic injury, and provide estimates of possible cost savings through disability management approaches;

• Identify financial and other obstacles to alternative private and public solutions to the problems of disability and the small employer and possible approaches to overcome these impediments;

• Conduct one or more tests or demonstrations, focusing on a specific industry, geographic area, or other discrete group, of innovative solutions that will reduce job separation for workers who become disabled while employed in a small business; and

• Disseminate project findings to small businesses, business and labor associations, universities, public agencies, and rehabilitation organizations.

**Evaluation of Therapeutic Interventions in Arthritis Rehabilitation**

There are over thirty-one million arthritic patients in the United States, and one million new cases of arthritis appear each year. The economic impact of the total number of arthritis patients per year is $13 billion, accounting for lost wages, hospitalization, and physicians' fees. More than five percent of the U.S. population, aged 25–74, has had to change job status due to arthritis with a loss of $4 billion in wages.

Arthritis includes more than 100 diseases and syndromes. The possibility of developing arthritis increases dramatically with age. Approximately one-fourth of those between the ages of 45 and 64 and 40 percent of those 65 and older have arthritis.

An absolute priority is announced for a project to:

• Investigate and evaluate current techniques to reduce and control pain resulting from arthritis;

• Identify the causes of weakness and fatigue associated with arthritis and determine the most effective intervention strategies available to reverse these effects;

• Investigate the potential benefits of exercise, if any, for certain types of arthritic conditions;

• Determine the efficacy of dry and moist heat as well as cold in therapeutic regimens for various types of arthritic conditions; and

• Identify and evaluate various therapies that could retard the progression of arthritis and prevent more severe disability.

• Identify approaches for job placement, retention, and return-to-work for individuals with arthritis.

**Functional Electrical Stimulation (FES) To Control Bladder and Bowel Incontinence**

Millions of people are affected adversely by the loss of voluntary control of bladder and bowel functions, resulting in either urinary or fecal incontinence or both. Incontinence is a major cause of institutionalization of elderly and disabled persons and seriously impedes rehabilitation and restoration to full functioning. Among the impairments that may result in this loss of control are neural injury, bladder imbalance, and stress incontinence. Functional Electrical Stimulation (FES) has been proven to be somewhat effective in helping persons with weakened pelvic floor muscles to improve voluntary control. The efficacy of FES for incontinence resulting from neurogenic dysfunction has not been as clearly demonstrated, but improved diagnostic methods and the development of FES systems to control bladder and bowel function hold great promise.

An absolute priority is announced for a project to:

• Develop and evaluate microcomputer-controlled diagnostic systems for simplified and precise diagnosis of bladder and bowel loop function and evaluation of the effects of FES on these loop functions;

• Conduct studies of methods for using FES on pelvic floor musculature; and

• Design and develop new applications of functional electrical stimulation based on the range of bladder and bowel dysfunctions defined by the new diagnostic systems.

**Cardiovascular Rehabilitation**

Cardiovascular diseases comprise a major group of medical problems in the U.S. Currently, four million persons are disabled by some manifestation of coronary heart disease, and 1.3 million suffer an acute myocardial infarction annually. Some of the 600,000 survivors will return to work after a normal convalescence, others will have to be retrained for new occupations, and the vast majority will experience complications that will curtail or hinder their successful rehabilitation. Additional numbers of persons have cardiovascular disabilities resulting from angioplasty, bypass surgery, or angiographic documente l coronary disease.

The problem is magnifi·d by the fact that the majority of the survivors of infarctions are under age sixty-five, and thus would be expected to have additional years of productive work, family responsibilities, and community activities. Unfortunately, the number of persons disabled by cardiovascular disease who are receiving rehabilitation services is small in proportion to the seriousness of the disease.

Clinical application of exercise physiology, accompanied by exercise stress testing, is a promising approach to enhance rehabilitation for this population.

An absolute priority is announced for a project to:

• Study and evaluate quantitative methods to assess myocardial performance and functional outcomes, and develop techniques to measure the functional capacity of the heart that can be used in vascular rehabilitation programs;

• Conduct normative studies to quantify the demands made upon cardiac capacity by various kinds of vocational and avocational physical activities and psychological stresses; and

• Develop, evaluate, and disseminate an effective intervention model to reduce impairment and enhance comprehensive rehabilitation of cardiovascular disability due to coronary infarction, angioplasty, bypass surgery, or angiographic documented coronary disease.

**Functional Electrical Stimulation and Pressure Sores**

Several million persons have reduced resistance to ulceration of the skin and soft tissues as a result of impaired circulation and concentrated external pressures. Among those who often acquire these debilitating conditions are those who are elderly or paralyzed. Recent preliminary studies, without control groups, have indicated that the application of electrical stimulation across severe wounds has led to the healing of these wounds in surprisingly short times without surgical or other interventions. There is also fairly clear evidence that paraplegic subjects participating in research studies to develop the capacity to stand and walk have experienced greatly reduced incidence of pressure sores. Research is needed to investigate these observations, which, if accurate, will reduce debilitation and other costs resulting from pressure sores.

An absolute priority is announced for a project to:

- Investigate the effects of electrical stimulation by both pulsed and direct current across pressure sore wounds to determine the efficacy of electrical stimulation for wound healing;
- Identify possible mechanisms and techniques to determine optimal quantities of FES to achieve good wound healing results; and
- Investigate the short-term dynamic effects of electrical stimulation, tissue undulation, shape reconfiguration, pressure variation, and increased blood circulation in relation to the prevention of pressure sores.

**New Technologies To Address Problems of Low Vision**

According to a 1977 household survey administered by the National Center on Health Statistics, 1.4 million Americans are unable to read ordinary newsprint at a normal viewing distance without some form of visual aid. Fewer than ten percent of these individuals are totally blind. The vast majority, however, have sufficient visual impairment to affect significantly their ability to perform everyday tasks.

The major causes of low-vision are macular degeneration, cataracts, glaucoma, and diabetes. Three-fourths of the population with low vision problems are over fifty years of age. The low-vision population will significantly increase in number as the population grows older. Assuming no change in the efficacy of medical treatment for sight-threatening diseases, the number of individuals with low-vision is projected to increase by 78 percent to about 2.5 million by the year 2000.

New technologies can provide the means whereby persons with low-vision disabilities can improve their functional sight substantially. A critical element of any project to be funded under this priority is the involvement of individuals with low-vision in the planning and assessment of the research and its products.

An absolute priority is announced for a project to:

- Design an improved macrofocusing monocular with a larger field of view, automatic focus, and more acceptable appearance;
- Design and develop new illumination devices that are portable, compact, and cool, require minimum energy, have variable beam size, variable illumination capability, and vertical polarization features; and
- Design and develop a valid vision assessment device to measure spatial resolution, contrast sensitivity, visual field, binocular function, and glare sensitivity.

**Psychological and Social Adjustment After Stroke**

Stroke is the third leading cause of death in the U.S., accounting for 169,000 deaths in 1980. There are an estimated 1.7 million persons who have cerebrovascular disease. Each year there are 400,000 new strokes and 100,000 recurrences. Although stroke remains the fifth-leading cause of death in persons aged 45 to 54 years, the number of persons in that age group who are surviving strokes has increased dramatically.

However, innovations in rehabilitation have not been sufficient to provide optimal independent functioning and maintenance of productive life style for the younger stroke survivor. The prognosis for these stroke survivors varies. It is estimated in the professional literature that ten percent will return to work, forty percent will have a residual mild disability, forty percent will require moderate assistance with activities of daily living, and ten percent will need long-term residential care. The goals of comprehensive rehabilitation should be to maximize the functional independence and productivity of the stroke patient by minimizing residual functional impairment, preventing secondary medical complications, treating psychological and social adjustment problems, and reducing vocational displacement.

An absolute priority is announced for a project to:

- Study and evaluate new approaches and techniques to enable achievement of optimal psychological and social adjustment following stroke, with emphasis on the adjustment needs of stroke survivors who are in the ages for working and rearing families;
- Identify and describe those characteristics that maximize the family's ability to cope successfully with the challenge imposed by a stroke, including strokes occurring to young or middle-aged members of the family; and
- Develop and evaluate new methods designed to promote the high degree of motivation necessary for successful cooperation of the patient and family in a rehabilitation program.

**Efficacy of Therapeutic Recreation as a Treatment Modality**

A large increase in the number of rehabilitation programs following World War II resulted in a proliferation of various types of therapeutic recreation services with diverse approaches and techniques but no coherent or commonly accepted guidelines or theoretical perspective. Since that time, therapeutic recreation has continued to gain acceptance as an apparently useful activity. However, there has been no systematic collection of data that assess the contribution of recreational therapy to the physical and mental functioning of persons with disabilities.

There are varying schools of thought concerning the types of benefits that can be derived from therapeutic recreation. One perspective is that recreation is purely diversionary, and has only peripheral benefits that are not absolutely necessary to the successful rehabilitation of disabled individuals. Others believe that therapeutic recreation can have a significant and positive impact on both the physical and psychological rehabilitation outcomes for disabled individuals and should be an indispensable factor in the rehabilitation process.

NIDRR proposes to assess definitively the merits of therapeutic recreation, and to measure its impact on the rehabilitation of disabled persons. This announced priority is designed to produce scientific data on the potential benefits of therapeutic recreation as a treatment modality in the rehabilitation process.

An absolute priority is announced for a project to:

- Determine the correlation between therapeutic recreation and successful rehabilitation outcomes in order to establish the effectiveness of this activity in rehabilitation;
- Investigate the impact of various types of therapeutic recreational activities on the physiology of persons with disabilities, including such variables as heart rate, oxygen intake, ventilatory volume, and blood pressure, and on psychological well-being, including such variables as self-esteem, emotional stability, internal control, and interpersonal adjustment;
- Assess the effectiveness of recreational activity in reducing and preventing secondary disability and readmittance to medical and rehabilitation facilities;
- Assess the effect of therapeutic recreation on the disabled individual's length of stay in a hospital or rehabilitation facility;
- Investigate the comparative effects on the psychological well-being of participants in recreational programs that integrate disabled individuals with those who do not have disabilities; and
- Conduct a state-of-the-art meeting in the final year of the project to promote consensus on the benefits of therapeutic recreation in rehabilitation.

**Studies on Traumatic Brain Injury (TBI) in Young Children**

"Few crises in life are as devastating as an illness or sudden trauma of a child that results in brain injury. Whether eighteen months or eighteen years, the child's life is drastically changed." (Hutzler, 1985) The child from birth to adolescence may experience major cognitive, emotional, and behavioral changes that severely alter his or her prior levels of functioning. These changes necessitate adjustments in the educational programs, family interactions, and social relationships of the child.

From the time of injury, families must learn to cope with a new set of economic, emotional, and psychological problems. In addition, families must learn to communicate with medical caregivers, to locate needed community services, and to identify and manage financial support and insurance reimbursement provisions.

As a prerequisite to developing new strategies and service programs to assist children with brain injuries and their families, it is necessary to understand thoroughly the scope and dimensions of the problem, and to document an effective role for families in the rehabilitation process.

This priority would have a positive impact on the family and is consistent with the requirements of Executive Order 12606—The Family. This priority would strengthen the authority and participation of parents in the rehabilitation of their children who are disabled.

An absolute priority is announced for a project to:

- Study the social, economic, and psychological impact of TBI on families of children up to age sixteen; and
- Develop and evaluate techniques for family involvement as part of the treatment/education/rehabilitation team in the re-entry process and study incentives and disincentives to family involvement.

**English Language Acquisition in Deaf Children**

There are persistent problems inhibiting successful transition into post-secondary school activities for deaf youth. Frequently, efforts to provide training for employment or career advancement require extensive supplementary training in basic English language skills before any meaningful instruction can proceed. The problem is not new, but has generated increased concern over the past decade.

In an effort to gain clearer understanding of the current trends in teaching English language skills to deaf students, particularly very young deaf children, NIDRR proposes to fund a project that will examine the methods currently used in selected schools, classes, and programs throughout the United States. The study will also assess the availability of various types of support services, including educational interpreters, and develop a comprehensive state-of-the-art document setting forth action steps for implementation at the national, state and local levels and also, additional research needs.

An absolute priority is announced for a project to:

- Analyze current processes used in teaching English language skills to deaf children in selected nationally representative schools, classes, and programs for deaf students;
- Assess English language competency levels of deaf youth leaving these programs over the past five years, differentiating among students with various levels of hearing impairment, numbers of additional disabilities, and primary family languages;
- Analyze the English language acquisition methods and techniques used in various training programs for teachers of deaf students;
- Analyze certification requirements related to instruction in English language skills for various local, State, and national bodies involved in awarding certificates to teachers of deaf youth;
- Analyze the literature on language acquisition in general, and its application to persons with deafness in particular; and
- Provide an authoritative report on the current state-of-the-art in teaching English language skills to deaf children, involving nationally recognized experts as well as deaf youth and their families, and including recommendations for future research.

**The Therapeutic Effects of Functional Electrical Stimulation on Persons With Paralysis or Vascular Insufficiency**

Several million persons who are either paralyzed or have severe vascular insufficiency that compromises their ability to perform physical tasks may benefit from the application of Functional Electrical Stimulation (FES). It is important that the effects of the use of FES on those populations be evaluated in the context of improving tissue viability and general physical condition.

An absolute priority is announced for a project to:

- Investigate therapeutic effects of the use of FES to promote standing and walking, using loop control modes with natural and implanted biosensors;
- Investigate the effects of FES on persons with vascular insufficiency when used as a therapeutic intervention to improve local or general physical conditioning that has been compromised by ischemia and peripheral neuropathy; and
- Develop and evaluate new FES techniques to increase blood flow and bone strength in paralyzed extremities.

**Research in Adventitious Hearing Impairment**

Most research on adult onset hearing loss has focused on diagnostic and amplification technologies and on neurological, anatomical and physiological changes in the cochlea, auditory nerve, brain stem, and cortex. Aural rehabilitation models have been published. However, despite the prevalence of hearing loss, and despite abundant anecdotal accounts of its human and economic costs, there has been surprisingly little research to examine the psychosocial effects of hearing loss in adulthood.

In 1986, NIDRR convened a conference on aging and rehabilitation; in one segment of that conference, a number of research scientists, health care professionals and persons from service-delivery agencies met to discuss priorities for collaborative research on adult onset hearing loss. This priority is based on research needs identified at that conference.

An absolute priority is announced for a project to:

- Analyze characteristics of adults who have adjusted successfully to hearing impairment, including such variables as personality factors, nature and severity of the hearing loss, communication styles, support networks, and interventions with professionals;
- Identify successful rehabilitation strategies, emphasizing professional attitudes and behaviors that may impede or facilitate adjustment;
- Investigate interactions between biological and psychosocial phenomena, with an emphasis on assessing the extent to which these interactions exacerbate disability caused by hearing loss in middle and later life; and
- Evaluate existing databases on health status, psychological characteristics, and behavioral patterns to determine their value in providing information about the effects of adult onset of hearing impairment.

**Priorities for Knowledge Dissemination and Utilization Projects (4)**

*Development and Management of Supported Work Programs by Consumer-Directed Independent Living Centers*

The Rehabilitation Act Amendments of 1986 authorize the Rehabilitation Services Administration (RSA) to make grants to assist State rehabilitation agencies to develop collaborative programs with appropriate public agencies and private nonprofit organizations for traditionally time-limited post-employment services leading to supported employment for individuals with severe handicaps. Independent living centers (ILCs) are eligible, although at present few ILCs operate these programs. Independent Living Centers may represent an untapped resource for supported employment, since the Centers already have contact with many of the disabled individuals in the targeted group, have networking capabilities in local communities, and have some experience at providing some of the support services necessary for supported work programs. Many ILCs are interested in expanding their services to two of the major target groups of supported work—those considered mentally retarded and chronically mentally ill. Many of the services provided by ILCs to eligible clients enable disabled individuals to live in community settings and in many cases enable disabled people to undertake employment. However, these services have not been developed and managed in a manner to constitute supported work. This project is designed to explore the potential value of ILCs as developers and managers of supported work projects, to develop models for effective ILC implementation of these programs, and to explore the value of supported work programs in assisting ILCs to expand their service bases to all eligible clients, including underserved populations.

An absolute priority is announced for a project to:

- Develop appropriate models and training and technical assistance materials to enable ILCs to develop and sponsor supported work programs;
- Test models and materials to ensure they are appropriate to rural and urban ILCs;
- Evaluate the effectiveness of ILCs as providers of supported work services and programs; and
- Disseminate materials to ILCs and State vocational rehabilitation agencies and provide training and technical assistance on their use.

**Public Education in Spinal Cord Injury**

Traumatic injuries to the spinal cord are among the most catastrophic of all disabling conditions. The annual incidence of spinal cord injuries has been estimated at 30–50 new injuries per million persons per year. There are estimated to be as many as 900 persons with spinal cord injury for every million persons in the population. Epidemiologic and demographic data indicate that spinal cord injury affects mainly young adults. More injuries occur in the 16 to 30 year old age group than all other groups combined. The overwhelming majority of people affected is male (82 percent). This is largely related to the high risk activities engaged in by young males.

Motor vehicle accidents cause nearly half of these injuries; falls and being hit by falling objects account for twenty percent; acts of violence and sports/recreation injuries each account for about fifteen percent of these injuries. Diving and football accidents are the two most common forms of sports injuries. Most injuries are sustained on weekends, and the incidence of injuries increases in summer months, and during daylight hours.

A public education effort is needed to inform young people, parents, and others about the prevention of spinal cord injury through protective sports equipment, seat belts, and safe driving and recreational practices, and to provide information on emergency procedures that can reduce the possibility of secondary complications.

An absolute priority is announced for a project to:

- Develop a program of public education materials for the general public, especially young people, emphasizing primary and secondary prevention, early intervention, and resources for information and treatment;
- Develop materials on prevention of spinal cord injuries, to include print and audiovisual training materials, posters, and pamphlets, that can be used by both the general and the special media; and
- Devise a plan for the dissemination of the materials developed in this project.

**Investigations of Patterns of Research Utilization**

To maximize the value of applied research, NIDRR and other agencies have sponsored programs to promote and ensure the use of new disability-related knowledge by consumers and service providers. These efforts include information centers, clearinghouses, bibliographic databases, networks, publications in various media, information brokers, technical assistance, and training. While many of these projects have had significant achievements, there has been no systematic assessment of the most effective methods to promote knowledge utilization by various target populations.

In order to develop a reliable knowledge base for planning and implementing future utilization programs, NIDRR proposes to evaluate various strategies and practices of information dissemination. Not enough is known about how professionals, service providers, and disabled consumers define their information needs and what types of products and services they expect. Even less is known about the extent or manner in which recipients of rehabilitation-related information actually use information and what value they attribute to research-based knowledge.

An absolute priority is announced for a project to:

- Conduct an inventory and substantive review of existing research on information utilization, particularly new research-based knowledge, in a variety of selected fields, including examinations of both conceptual and practical literature, and determine its applicability to the rehabilitation field;
- Review the use of existing rehabilitation information services and databases according to volume of users, characteristics of users, and types of requests and compare the findings to uses of selected other information systems (e.g., medicine, education, aging);
- Investigate the use of information by disabled consumers and their families, and assess the relative effectiveness of various strategies for reaching this audience;
- Develop and test techniques to reach segments of the disabled population that are less likely to access information, including elderly persons, disadvantaged persons, residents of rural areas, minorities, and individuals whose primary language is not English; and
- Develop programs to train individuals with disabilities in the skills of effective information access and to train consumer organizations in the best methods to reach their target audiences in their dissemination efforts.

**Regional Information Exchanges**

There is a need to promote the widespread use of new, validated rehabilitation practices and exemplary rehabilitation programs in selected priority areas in order to improve the service delivery system for disabled

individuals. NIDRR proposes to address this need by establishing one or more regional information exchanges similar to the regional diffusion networks which are now operating in the East (Federal Regions I and II). NIDRR believes that these exchanges will be most effective if they focus on facilitating the adoption of program models developed locally or within the same region. Also, NIDRR believes that this information exchange will be strengthened by the inclusion of expert consultants available to provide specific technical assistance aimed at rehabilitation agencies.

Priority areas for diffusion efforts during the period of this priority will include the use of rehabilitation technology in vocational rehabilitation, barrier-free environments, transitional employment programs, and other topic areas which are of concern to the specific region or which are agreed upon by NIDRR and the recipient of the award.

An absolute priority is announced for one or more projects to:

- Develop criteria for identifying exemplary rehabilitation programs, and develop information collection instruments which include measurements related to the identified criteria;
- Solicit nominations of exemplary programs in the priority areas from program operators, consumer organizations, and other relevant parties in the selected region;
- Develop and implement a procedure to select the most promising programs for further consideration and arrange independent peer reviews of those programs to determine exemplary programs for diffusion purposes;
- Develop public relations and marketing approaches to make the wide audience of rehabilitation service providers and special educators aware of the exemplary programs and stimulate their interest in adopting or adapting similar models, assisted by the diffusion network;
- Facilitate the exchange of technical assistance between the exemplary program and the requesting adopter program through onsite demonstrations, training materials, and direct consultation;
- Develop and maintain a referral system of expert consultants in these priority areas of the project to facilitate the linkage of service providers and disabled consumers to knowledgeable resources; and
- Maintain appropriate data on the diffusion network to support an evaluation of its effectiveness.

(Program Authority: 29 U.S.C. 761a, 762)

Dated: January 29, 1988.

**William J. Bennett,**

*Secretary of Education.*

(Catalog of Federal Domestic Assistance No. 84.133, National Institute on Disability and Rehabilitation Research)

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**S.J. Res. 172/Pub. L. 100-246**

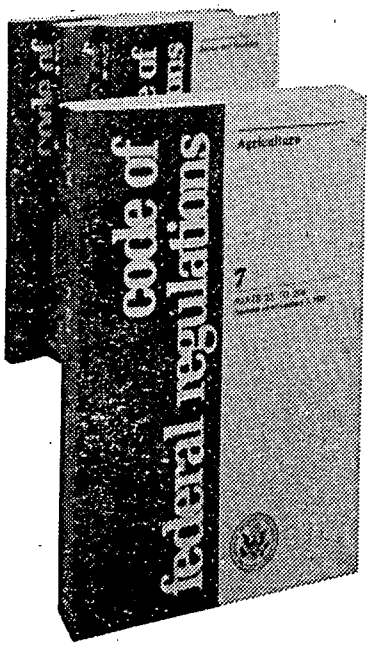
To designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Associations Week." (Feb. 11, 1988; 102 Stat. 8; 2 pages) Price: $1.00

**S.J. Res. 39/Pub. L. 100-247**

To provide for the designation of the 70th anniversary of the renewal of Lithuanian independence, February 16, 1988, as "Lithuanian Independence Day." (Feb. 11, 1988; 102 Stat. 10; 2 pages) Price: $1.00

**S.J. Res. 143/Pub. L. 100-248**

To designate April 1988, as "Fair Housing Month." (Feb. 11, 1988; 102 Stat. 12; 1 page) Price: $1.00

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